

*Nilgiris Biosphere Reserve:  
fading glory*



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## **Foreword**

The Nilgiris Biosphere Reserve in general, and the Blue Mountains in particular, is slowly but steadily losing its pristine glory due to unplanned development and insensitive development plans and projects. The common property resources are put at great risk by the current usage patterns and this leads to plundering of resources in the name of development. Ecological implications, apart from social implications, have been constantly disregarded. Ecotourism is the newest vehicle for tourism promoters to promote tourism despite its impacts on social and environmental aspects of the community.

Tourism practices currently perpetuated in this ecologically sensitive area, including its protected areas, invariably show a trend of 'development at any cost'. There is an all out effort to exploit current spaces in tourism zones and further encroach onto additional spaces in other zones.

In one fell swoop, subsistence needs of local communities and their access to traditional livelihood resources are negated and neglected by tourism-related development that opens up more and more spaces for the pleasures of tourists and profits of tourism industries. Everywhere in this biosphere there is little concern about longer-term implications of such trends that siphon off resources and natural endowments of the local people, is happening who use these resources rationally and sustainably.

Among the various protected areas present in the Nilgiris Biosphere Reserve, the following four the Waynad Wildlife Sanctuary, the Bandipura National Park, the Nagarahole National Park and the Mudumalai Wildlife Sanctuary are receiving maximum attention for the development of ecotourism. In Tamilnadu, vast forest areas come under the focus for tourism development. In Karnataka the broad specifications of wildlife circuit and hill resort circuit within the vast spectrum of tourism development circuits is a case in point to expose the real intent of the State Government in tourism promotion. In Kerala too all national parks and protected areas are being opened up for tourism purpose, a case in point being the Wayanad wildlife sanctuary. When each state is vying for its share in the tourism cake, their environmentally sensitive regions are put at maximum risk.

This dossier is attempting to raise pressing concerns and priorities from the ground and seeks interventions to redeem the glory of Nilgiris Biosphere Reserve.

**EQUATIONS TEAM**

### Nilgiri Biosphere Reserve, India

Tamil Nadu has the unique distinction of having a marine biosphere reserve viz., the Gulf of Mannar Biosphere Reserve and also a hill biosphere reserve, the Nilgiri Biosphere Reserve. It is noteworthy that the Nilgiri Biosphere Reserve is not only the first to be set up in India under the Man and Biosphere Programme, but also the only Indian biosphere reserve that has been included in UNESCO's global network of biosphere reserves.

### General Description

The programme of Biosphere Reserve was initiated under the 'Man & Biosphere' (MAB) programme by UNESCO in 1971. The purpose of the formation of the biosphere reserve is to conserve in situ all forms of life, along with its support system, in its totality, so that it could serve as a referral system for monitoring and evaluating changes in natural ecosystems.

The Nilgiri Biosphere Reserve encompasses parts of Tamilnadu, Kerala and Karnataka. The annual rainfall of the reserve ranges from 500 mm to 7000 mm with temperature ranging from 0°C during winter to 41°C during summer. The Nilgiri Biosphere Reserve falls under the biogeographic region of the Malabar rain forest. The Mudumalai Wildlife Sanctuary, Waynad Wildlife Sanctuary, Bandipur National Park, Nagarhole National Park, Mukurthi National Park and Silent Valley are the protected areas present within this reserve. The Nilgiri Biosphere Reserve comprises of substantial unspoilt areas of natural vegetation ranging from dry scrub to evergreen forests and swamps thus contributing to highest biodiversity. The altitude and climatic gradients support and nourish the different vegetational types.

<b>Location</b>	:	11°36' to 12°00'N; 76°00' to 77°15'E
<b>Area (hectares)</b>		
<i>Total</i>	:	552,000
<i>Core area(s)</i>	:	124,000
<i>Buffer zone(s)</i>	:	357,400
<i>Transition area(s) when given</i>	:	70,600
<b>Altitude</b> (m. above sea level)	:	+300 to +2,670
<b>Year designated</b>	:	2000
<b>Administrative authorities</b>	:	Principal Chief Conservator of Forests, (Wildlife ), & Chief Wildlife Warden, Government of Karnataka, Bangalore

Nilgiri is the first internationally designated biosphere reserve in India, representing a unique and threatened ecosystem in the tropics within the western Ghats system. It is one of the world's biodiversity hotspots and provides habitat for the largest south Indian population of tigers, elephants and other large Mammals. **The Nilgiri Biosphere Reserve was the first biosphere reserve in India established in the year 1986.** It is located in the Western Ghats and includes 2 of the 10 biogeographical provinces of India. A wide range of ecosystems and species diversity are found in this region. Thus, it was a natural choice for the premier biosphere reserve of the country.

The inaugural session for the biosphere reserve was held on the State Forest Service College Campus in Coimbatore. It was chaired by Mr. Gokhale, president of the Indian National MAB Committee. After the inauguration, copies of the UNESCO biosphere reserve certificate signed by the Director General of UNESCO, Mr Koichiro Matsuura, were presented to Chief Wildlife Wardens of Tamil Nadu, Kerala and Karnataka - Mr Sukhdev Thakur, Mr V K Sinha and Mr S K Chakravarti.

The Nilgiri Biosphere Reserve was established mainly to fulfill the following objectives:

- To conserve *in situ* genetic diversity of species
- To restore degraded ecosystems to their natural conditions



- To provide baseline data for ecological and environmental research and education
- To function as an alternate model for sustainable development

## **Zones**

The NBR is broadly classified into various zones such as Core Zone, Manipulation (Forestry) Zone, Manipulation (Tourism) Zone, Manipulation (Agricultural) Zone and Restoration Zones. The core zone would serve to preserve ecosystems with their whole range of biological diversity. The manipulation or buffer zone would include regions with ongoing human uses, including forestry, agriculture and animal husbandry.

### **Core Zones**

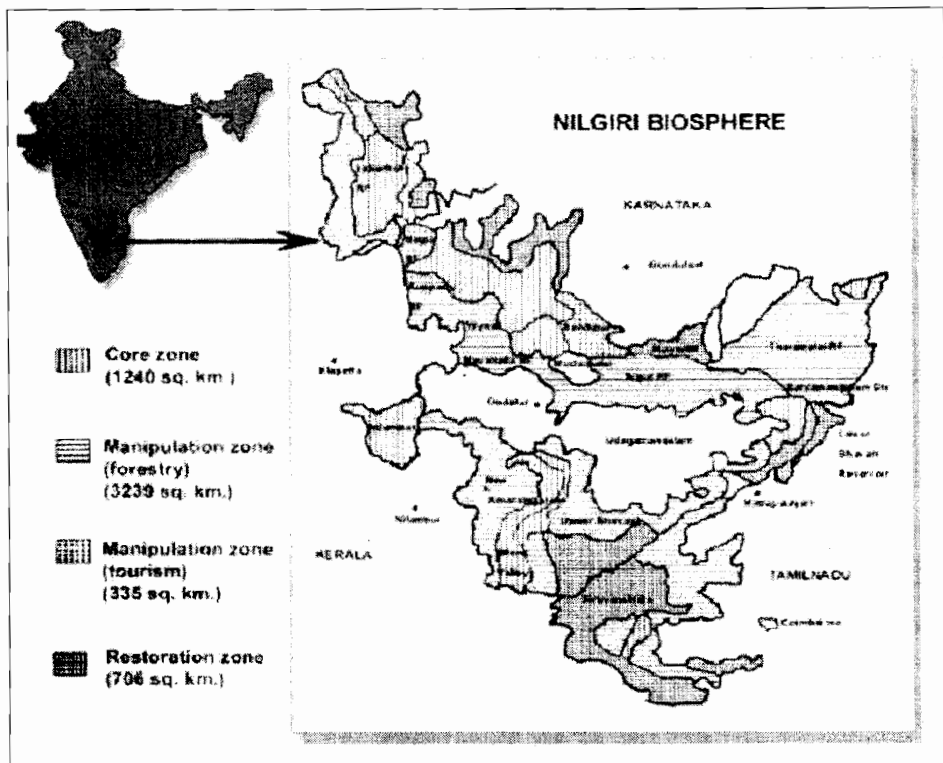
Primarily the core zones are areas where human activity should be either absent or kept to a minimum out of necessity. There should be no forestry operations, collection of minor forest produces or any developmental activities such as construction of dams; regular tourism should not be allowed. The only people who may be permitted to reside within the core areas are adivasis who have been always living there. Apart from the concerned officials, the entry of other bonafide people should be strictly regulated through permits. The total area of Core Zone of the NBR is about 1240.3 sq. Km.

### **Buffer Zones**

While other zones effectively buffer most portions of the core zone, in areas where the core zone abuts human settlement, a buffer zone of necessary breadth is defined. For instance, the core *Nilambur Kovilagam* abuts settlement to its east. A distance of about 1 Km from human settlement is considered as buffer in such situations to facilitate genuine utilisation by the people.

### **Manipulation (Forestry) Zones**

These zones are to be managed according to sound forestry principles for obtaining yield of forest produce consistent with the needs of the ecosystem. The total area of this zone is 3239 sq Km.



## Manipulation (Tourism) Zones

Regular tourism should be largely restricted to these zones. The infrastructure for tourism should not be expanded beyond the current levels within the forest areas. All new tourism-oriented constructions should be located outside the forest. As a whole tourism within the biosphere reserve should not be developed on a large scale but carefully regulated so as to allow only minimum disturbance. The tourism zones covering an area of 355 Km are located in the currently used wildlife tourism areas. These are Nagarhole WLS, Bandipura National Park and Mudumalai Sanctuary. A new tourism area in the Begur range of Bandipura National Park has been proposed by CES of IISc in order to ensure a regular presence of department staff, to further ensure better protection. In Tamilnadu, 65.8 Km have been notified as tourism manipulation areas.

## Restoration Zones

Areas in a highly degraded stage adjacent to the other zones of the NBR are brought under vegetation cover by scientific afforestation programmes. The total area is 706 sq Km.

## List of PAs in the NBR

Sl#	Protected Area within the NBR	Area (sq Km)
1.	Mudumalai Wildlife Sanctuary	321
2.	Mukurthi National Park	80
3.	Bandipur National Park	800
4.	Nagarahole National Park	572
5.	Waynad Wildlife Sanctuary	344
6.	Silent Valley National Park	78

Source: <http://cpreec.org/nbr.htm>

## Indigenous people

Adivasi groups like the *Todas*, *Kotas*, *Irullas*, *Kurumbas*, *Paniyas*, *Adiyans*, *Edanadan Chettis*, *Cholanaickens*, *Allar*, *Malayan*, etc., are native to the reserve. Except for *Cholanaickens* who live exclusively on food gathering, hunting and fishing, all the other adivasi groups are involved in their traditional occupation of agriculture.

Several ethnic groups inhabit the area, including the only surviving hunter-gatherers of the Indian subcontinent, the *Cholanaikans* in the New Amarambalam of Nilambur. The local populations subsist on the use of natural resources (such as medicinal plants), agriculture, agri-horticulture and the commercialization of these products.



Eco-development programmes are envisaged to provide schemes for generating additional income and security for people, such as forest and grassland management, habitat improvement, animal husbandry, apiculture and aquaculture, development of crafts, education and health. About 200,000 people visit this region annually (2000), thus tourism has also become an important source of income.

## Flora

The Nilgiri Biosphere Reserve is very rich in plant diversity. About 3,300 species of flowering plants can be seen here. Of the 3,300 species 132 are endemic to the Nilgiri Biosphere Reserve. The genus *Baeolepis* is exclusively endemic to the Nilgiris. Some of the plants entirely restricted to the Nilgiri Biosphere Reserve include species of *Adenoon*, *Calacanthus*, *Baeolepis*, *Frerea*, *Jarodina*, *Wagatea*, *Poeciloneuron*, etc.

There are 175 species of orchids found in the Nilgiri Biosphere Reserve, 8 are endemic to the Nilgiri Biosphere Reserve. These include endemic and endangered species of *Vanda*, *Liparis*, *Bulbophyllum*, *Spiranthes* and *Thrixspermum*. The sholas of the Nilgiri Biosphere Reserve are a treasure house of rare plant species.

## Fauna

The fauna of the Nilgiri Biosphere Reserve includes over over 100 species of mammals, 350 species of birds, 80 species of reptiles and amphibians, 300 species of butterflies and innumerable invertebrates. 39 species of fish, 31 amphibians and 60 species of reptiles endemic to the Western Ghats also occur in the Nilgiri Biosphere Reserve. Fresh water fish such as *Danio neilgheriensis*, *Hypselobarbus dubuis* and *Puntius bovanicus* are restricted to the Nilgiri Biosphere Reserve. The Nilgiri tahr, Nilgiri langur, slender loris, blackbuck, tiger, gaur, Indian elephant and marten are some of the animals found here.



Tourism practices currently perpetuated in this ecologically sensitive area and even in Protected Areas invariably show a trend on development at any cost. There is an all out effort to fully exploit current spaces in tourism zone and further expand spaces in other zones.

All sorts of tourism development in these highly sensitive ecological areas notified as the Manipulation Zone and earmarked for tourism, is a matter of concern. As an approach to questioning the current development pattern and paradigm that is only helpful for preventing access to common property resources and siphon off resources of the local people, has warranted a critical appraisal of impacts of tourism in these crucial areas. Among the various protected areas present in the Nilgiris Biosphere Reserve, the following four are receiving maximum attention for the development of ecotourism.

## **2.1. The Mudumalai Wildlife Sanctuary**

The Mudumalai Wildlife Sanctuary in Tamilnadu is situated in the northeast portion of the Nilgiris plateau. It consists of four ranges, namely Kargudi Range (54.6 sq Km), Theppakadu Range (89.5 sq Km), Mudumalai Range (96.6 sq Km) and Masinagudi range (80.4 sq Km). The Mudumalai Wildlife Sanctuary is the focal point of attention of all kinds of tourists and tourist planners in the era of ecotourism development.

The facilities that are provided to the tourists are a vehicle ride, elephant ride and stay at the watchtower. Although there are no hotels for boarding and lodging, the Tamilnadu Forest Department provides these facilities for nominal rates. These are rest houses at Theppakadu, Kargudi and Masinagudi. Dormitory facilities are also available.

## **2.2. The Waynad Wildlife Sanctuary**

Established in the year 1973, the Waynad Wildlife Sanctuary is about 344 sq. Km in extent. The Sanctuary exists as two bits. Tholpetty, near Mananthavady is contiguous with Nagarahole of Karnataka. The Muthanga-Bathery-Kurichiat Ranges are nearer to Sulthan Bathery and border Mudumalai of Tamilnadu and Bandipura of Karnataka. Rich in biodiversity, the Sanctuary is an integral part of the Nilgiris Biosphere Reserve, which has been established with the specific objective of conserving the biological and cultural heritage of the region.

Consisting entirely of notified Reserves, the Sanctuary is very rich in fauna and flora. The management of the Sanctuary lays emphasis on scientific conservation with due consideration to the general lifestyle of the adivasis and others who live on the fringes of the forest.

Accommodation is available in Sulthan Bathery and Mananthavady, which are the nearest towns. The Kerala Forest Department provides the "*srambri*" wooden rest houses and dormitories in the Sanctuary.

## **2.3. The Bandipur National Park**

Created a national park in 1974, it has an area of 874 sq. Km, comprising a wilderness zone of 335 sq. Km, buffer zone of 434 sq. Km, tourism zone of 105 sq. Km and an administration zone of 1 sq. Km. Initially in 1974, the tiger reserve comprised 690 sq. Km of the national park; the remaining 184 sq. Km of the park came under Project Tiger in 1984. The park is contiguous to Nagarhole National Park, Mudumalai Sanctuary and Waynad Sanctuary.

The forest department maintains reasonably priced lodges, rest houses and cottages. Sprawling deluxe bungalows are also available.

## **2.4 The Nagarhole National Park**

Situated within the south-eastern parts of Koodogu (Coorg) and south-western parts of Mysore District. Created a national park in 1974. it has an area of 644 sq. Km. The national park is contiguous with Bandipur National Park and Kakankote Reserve Forest to the south.

The Forest Department manages two rest houses, reservation made in advance through the Forest Department offices in Mysore or Bangalore to stay here. Alongside the Nagarhole main road is another resort the Jungle Inn (at Veerana Hosahalli) that is right at the main entrance of the park. It has colonial lodges, private rooms and dormitories with modern amenities.

## **2.5 Trends In Tourism Development**

**Tamilnadu:** Tourism in Tamilnadu has received a major thrust in the last few years. Several steps have been taken to make Tamilnadu an inviting and attractive destination for foreign and domestic tourists. It is believed that vast forest areas and an extensive coastal stretch have high potential for development of tourism and this would attract national as well as foreign

investors into the state. According to Tamilnadu Government 25% of Tourists are coming to the state for visiting ecotourism destinations and thus developing ecotourism has gained much more prominence and invariably figured in their agenda.

### ***Karnataka:***

The broad specifications of wildlife circuit and hill resort circuit within the broad spectrum of tourism development circuits is a case in point to dwell the real intent of Karnataka Government in tourism promotion. Karnataka has been attracting both domestic and foreign tourists. About 177.5 lakhs tourists to visit various places of tourist interest in the State, out of which about 175 lakhs are domestic tourists and 2.5 lakh are foreign tourists. Bandipur and Nagarahole are notified as tourism promotion destinations with an emphasis on ecotourism. Bandipura especially is witnessing unplanned development of hotels and resorts on its boundaries and surrounding areas like Bush Betta.

When each state is vying for its share in the tourism cake, it is the environmentally important place's interests are put to great danger and subjected to more exploitation. Thus the major trend in tourism development is that development of ecotourism is unveiled.

### ***Kerala:***

In the wake of lack of investments in the traditional sectors the government has been emphasizing tourism development as a solution for development and growth. The factor that contributes significantly to the growth of tourism in the state is the rich natural resource the state is endowed with.

## **2.6 Ecotourism Definitions**

The term 'ecotourism' is used in the context of tourism in protected areas and/or areas of significant ecological values, like wildlife. It has evolved from nature-based tourism and is also sometimes referred to as nature-tourism (Bandy, 1996)<sup>1</sup>. Ecotourism has been formulated and studied as an instrument for sustainable and equitable tourism. Apart from the tourism aspect, it has also been deliberated as a source of revenue for the conservation of the area it occurs in and as means to bring in the local communities in the conservation debate. Hence, the connotation to ecotourism is both economic and conceptual, respectively.

Moreover, the destinations for ecotourism cover a wide range of ecosystems, both terrestrial and aquatic; from snow-covered mountains to forest clad hills, sandy deserts to coasts. It should be kept in mind that all these ecosystems have local communities as an integral component and ecotourism also includes these communities as beneficiaries.

## **Tourism in Natural Areas**

Tourism in natural areas, covering Protected Areas (PAs) and ecologically sensitive regions without a PA status, raises serious concerns to the primary goal of biodiversity conservation. Especially, when experiencing nature is redefined as tourism - a capital-intensive industry. In India, it also raises serious concerns in the absence of precautionary legal guidelines and principles. Under such circumstances, it is problematic to term current practices of tourism in natural areas as ecotourism.

Tourism providers today define ecotourism to their convenience and advantage. A solar heating system, water recycling unit or use of paper bags is good enough for a hotelier to lay claim to the ecotourism label. This is what accreditation processes at national and international levels tend to facilitate in the form of eco-labelling. However, they evade putting into practice certain broadly evolved norms of ecotourism. This contradiction will continue as long as tourism remains in the ambit of private profit making. Ecotourism is based on principles of participation; consultation and sharing of benefits among all stakeholders, especially the local community on whose resources ecotourism thrives.

Tourism in PAs needs to take into account the circumstances where it is located and practised. Creation of 'tourism zones' inside PAs further intensifies discrimination against traditional dwellers in the area. These tourism zones legitimise the presence of a global industry within an ecologically sensitive region. This questions the very basis of PAs that exclude the sparsely numbered traditional community with no or minimum infrastructure, in the name of conservation and allows in tourists who have no understanding of the intrinsic sensitivity of the PA.

Under such circumstances, conservation can be undertaken only through measures and systems that are transparent.

## 2.7 Tourism Impacts

### Identification of Major Impacting Factors

The nature and extent of impact of tourism depends on the intensity of tourism activity as well as the sensitivity of the impacted ecosystems. This must be ascertained on the basis of the specifics of the ecosystems in consideration. However, a few general statements may be made regarding major impacting factors. Most of the studies show that more severe impacts of tourism on species and ecosystems arise from the infrastructure and building activity it involves, rather than from the recreational activities themselves, as in the case of coastal tourism. In contrast, with nature tourism, which needs relatively little infrastructure, the activities themselves are more in the foreground of impacts. In places where sites have already been selected and developed for tourism, many conflicts are unavoidable and the impacts can only be diffused to a limited degree during the operational phase.

*Draft Wildlife tourism guidelines, 1997 still remain in the draft form. The Draft MoEF guidelines on ecotourism need to be made into legally enforceable guidelines given the push for ecotourism projects*

The aspects that need to be looked into for determining the impacts of tourism are:

1. *Site choice and development*
2. *Location and operation of tourism related infrastructure*
3. *Visitor activities*
4. *Indirectly induced effects*

Tourism related facilities are preferred on attractive landscape sites like coasts, primarily sandy beaches and dunes, in proximity to lakes and rivers, and forest areas in the interior, and in the mountains, exposed mountain / hill tops and slopes. These are often species-rich ecosystems or transitional zones in between ecosystems, i.e. ecotones. Due to establishment of tourism related infrastructure and facilities, the species generally found here are either destroyed or severely affected.

Building materials are often removed from ecosystems for tourism related constructions, like hotels and roads, in a non-sustainable manner, e.g., as in the case of extracting the fine sand of beaches, which is used to mix concrete. This increases the danger of erosion on the beaches, so that in


some cases sand is pumped onshore and coastal-protection steps have to be taken. The use of traditional building materials such as wood or reef limestone for tourism related constructions could also pose problems when the use is from the ecosystems themselves and is excessive.

The most severe destructions are caused by untreated sewage, inadequate garbage removal and excessive water consumption. It is beyond any iota of doubt that pollution from sewage is one of tourism's biggest problems, as it can scarcely be confined spatially, and the changes in the nutrient balance it causes inflict extensive damage on the impacted aquatic habitats. This is particularly true of hill and mountain streams.

Solid waste is another major problem, especially in developing countries where there are hardly any capacities for regulated disposal. The problem is further aggravated by the rampant use of non-biodegradable and toxic wastes like plastics.

Water consumption by tourists and tourism facilities amounts to many times, sometimes up to ten times, the minimum domestic requirement. Only a least portion of this amount is taken up by drinking water. Water is used primarily for showers, swimming pools and watering gardens and golf courses etc. The problem primarily occurs in arid climates and on small islands with limited water supply, but also at many destinations with more plentiful precipitation, which are frequented by tourists preferably in the dry season. This results not only in social conflicts but also in the fact that wetlands dry out and salt water intrudes into near-coastal freshwater biotopes. High concentration of these tourism facilities also cause a major threat to the ground water level, since water consumption is extremely high in tourism.

Large-scale tourism projects can have considerable distorting effects on the economies of developing countries, especially when economic systems that are more typical of advanced service economies are introduced into agrarian economies abruptly and in massive form. These have both social and ecological consequences because of the huge income gradient, displacement of local communities and migration from rural areas to the tourist centres. Thus, increased population density leads to further environmental strain in the affected areas, particularly resource depletion, sewage and garbage.



Water treatment and sewage disposal systems are generally absent in tourist locations. When large-scale tourism service providers skirt around environmental protection norms, the informal sector like shacks and restaurants also follow the trait. The cumulative effect of these is found to complicate matters.

## **Tourism in PAs**

Regions that receive specific protection measures, as in the case of Protected Areas (PAs), which include national parks, wildlife sanctuaries, biosphere reserves and tiger reserves, and regions that have no specific protection whatsoever but come under general regulatory mechanisms need to be understood differentially while discussing tourism and biodiversity.

Creation of 'tourism zones' inside PAs further intensifies this discrimination. This has led to the legitimised presence of a global industry inside an ecologically sensitive region, whereas many a times the indigenous communities are often evicted from the forest areas, while tourism is promoted. Tourism is primarily a consumptive activity based on presence of people. This sets the picture upside down and questions the very basis of PAs, which excludes a sparsely numbered indigenous community living with no or minimum infrastructure, in the name of conservation. Ironically another set of people are brought in, who have no prior understanding of the intrinsic sensitivity of the PA, as tourists.

## **Tourism Practices - current**

The current practices of tourism however are that of sheer exploitation of nature, resources and also of the community who are dependent on such resources. There is enough proof to show that the tourism industry violates existing laws and disregard peoples' interests by deliberate moves. This includes the forests, hills, mountains, deserts, coasts, backwaters, mangroves and islands.

## **Forest regions**

The thrust to nature-based tourism, currently popular with the term ecotourism, has brought forests into the ambit of tourism discussions. With multiple stakeholders and interests already in this region, tourism has only aggravated the conflicts. For example commercialisation and



commodification of natural resources such as land, water and trees and minor forest produce are the areas of contradiction between the local people and industry. Disrupting the course of migratory routes in the elephant corridor in Masinagudi, Bokkapuram, Anaikkatty, and Thuvaipathy areas is also posing a danger to the existence of elephants and creating man-animal conflicts.

There are ongoing discussions with the unsettled issue of displacement and negation of traditional and historic rights to the forest community when colonial laws were introduced in the country. The fast depletion of forests and thereby the flora and fauna has put people concerned with conservation, the government and the development of these forest areas at loggerheads. Tourism is yet another entry into these already heated turmoil.

The indigenous people and their rights issue today are more assertive and political. The forest laws have not been able to match the demands of the community. Therefore it is quite logical when the community raise the legitimacy of tourism in the forest region, whereby another new actor comes to these regions, while issues that the community raised still remain unresolved. Also the fact that the tourism industry is able to bypass the laws if they wish to had angered the community. This was evident in the Taj - Nagarhole National Park in Karnataka. While the community was up in arms against the displacement, the forest department allowed a three star hotel inside the national park in violation to the Wild Life (Protection) Act, 1972 is a pointer to the ongoing debate and to see on whose side the balance tilts.

The extent to which forests and ecologically sensitive regions need to be open for tourism with the adding pressures is yet another area of concern. The very fact that protected areas does not allow human intervention is challenged by tourism. Carving out tourism zones out of protected areas is the new trend. But even then would this be able to withstand the tourist pressure is under debate. The creation of tourism zones within protected areas gives legitimacy to tourism inside. Currently, the Forest laws regulate this activity to some extent. As tourism gains more momentum, and 100% FDI accorded to tourism by the Central Government, the chances of these areas getting privatised become more probable (like heritage sites now being privatised, e.g., Taj Mahal.)

### **Hill regions:**

Ooty and newly-developed places like Masinagudi, Kotagiri, are famous south Indian hill stations and also tourist sites have gone through unprecedented construction and infrastructure development causing landslides almost every year. Initiations to arrest unplanned and often detrimental constructions through regulatory mechanisms like the Hill Area Development Authority (HADP) is a boon, though at the same time prone to economic and political manipulations.

## **2.8 Case Study #1: Ecotourism Development in Masinagudi**

Tourists in Masinagudi seek novel, adventurous and personalised experiences in unique, remote and primordial locations. Increasingly tourists in Masinagudi are also seeking authenticity, immersion, self-discovery and quality rather than quantity. Eco-tourism can lead to a change in resource ownership and management that while being beneficial to the tourism industry, is detrimental to the local people. The happenings in and around Masinagudi are signalling negative impacts rather than benefits. Hence, research on all those aspects assumes importance to validate certain premises with first hand information and data.

### **Masinagudi**

Masinagudi range is spread over about 80.4 sq. Km in Mudumalai Wildlife Sanctuary and is located in the southeast part of the sanctuary. These areas are declared as reserve forest areas. The eastern part of the sanctuary, beyond Masinagudi, gets very low precipitation; about 800-mm. Dry cultivation is practiced in Masinagudi. *Kurumbas*, *Irulas*, *Chettis* and *Paniyas* are the hill tribes who have been living in the sanctuary since a long period of time.

Masinagudi is a small village, which lies northwest of Udhagamandalam (Ooty) in the low country in the Moyar Valley at a distance of 25 Km from Udhagamandalam by the Sigur Ghat road. It could be also reached by the Udhagamandalam-Gudalur-Moyar Ghat road. The latter route is circuitous and a distance of about 90 kilometers is to be covered. The village derives its name from the village Goddess Masini Amman, a local deity, whose shrine is on the western part of the village, now near the bus stand in the route of Theppakadu. This village once called Masanahalli.

1. Study researched and written by P. Krishnamoorthy and S. Liyakhat of **EQUATIONS**. Field research was carried by **VTMS** and **TNGM**.

This is also known as 'Devarayapattinam'. It was under the reign of Krishnadevaraya, the greatest Vijayanagar king, as found in an inscription of 1527 A.D. The Masanahalli village in the Devarayapuram of Waynad was given as gift to one of his local chieftains by name Krishna Raya Nayaka who was a close associate of Krishna Deveraya himself. The ruins of mud forts at Thottalingi, Arallathi and Sembanatham situated on the left bank of the Sigur river, and the hosts of cromlechs found with several parts of the village go to prove that the place was of far greater importance. Near the ruined fort at Sembanatham, is found a small shrine dedicated to Basaveswaraswamy.

Masinagudi is claimed to have been one of the capitals of the whole of the Waynad and was an important centre of business and authority. The whole area is covered with thick jungle teeming with wild animals and elephants. The forest reserves have now been annexed to the Mudumalai Wildlife Sanctuary.

The work on the Moyar hydro electricity scheme, which commenced in 1946, has provided for the employment of more than 15,000 persons, who were housed in the camps built at Masinagudi and Moyar. The forest of the area is rich sandalwood and other minor forest produces such as honey, wax, gallnuts, tamarind, soap-nut seed, pungam seeds, etc.

The place is suited for mulberry cultivation and as such the Government of Tamil Nadu maintains a silk farm here. There is a tourist bungalow maintained by the Highways Department. The Forest Department also has a rest house here. The village has a Police Station, post office and high school. It is the headquarters of the Forest Range Officer, Masinagudi. In 1950, the village was constituted as a Panchayat.

## **Ecology of Masinagudi**

Masinagudi is strategically located in Nilgiris Biosphere Reserve, which is declared as a part of the International Network of Biosphere Reserves by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) programme. The majority of Nilgiris Biosphere Reserve (NBR) spreads over in Tamilnadu to the tune of 2237.6 sq kilometres. In Tamilnadu there are two National Park/Protected Areas. They are Mukurthi and Mudumalai. Masinagudi is 6 Km away from Mudumalai and this also gives tourist attraction and much value to Masinagudi.

Masinagudi has hills and valleys forming its geographical feature and terrain. Its surrounds consist of dry deciduous forest and rain-fed deciduous forests, scrubs, slightly moist teak forests, secondary moist bamboo brakes and southern sub-tropical hill forest.

The commercial rental establishments and shops of the Panchayats are 18. There are 12 Private Guest houses in Masinagudi and these private guesthouses are nothing but profit mongering resorts, which do anything for its revenue.

## **Fauna and Flora of Masinagudi**

The fauna in the Masinagudi region and its surrounds is comprised of species common to the Western Ghats. These are mainly herbivorous mammals like the elephant, gaur or Indian bison, sambar, chital or spotted deer, muntjak or barking deer, and the common langur and bonnet macaque. The carnivorous mammals are tiger, leopard (both of which are seldom seen) and the jungle cat. Omnivorous mammals are the sloth bear. The area also has a rich variety of bird life. Reptiles are monitor lizards, cobra, rat snake, wolf snake, golden trinket snake; tortoises are found in the water bodies etc.

Masinagudi is a very important region on the Western Ghat circuit and a proven elephant corridor habitat; the migrating elephant herds pass through this region quite often.

Chital population is high in Masinagudi and Mudumalai area. Monitor Lizards are a special feature of the Masinagudi where they attain a large size. Elephant population is also very high in this area.

## **Political Geography of Masinagudi**

Ooty Taluk and Gudalore Panchayat Union Council administer Masinagudi Village. Total area of the village is 33120.18 acres (55.75 Sq Km). Out of which, 3597.25 acres are Fertile and 28151.68 acres are Forest and Promboke (common land) are 1371.75 acres. A water source of the village is Vazhai thottam.

ranging from Rs.900 to Rs.1500 per month only according to their experiences. For positions like Managers and Marketing personnel, no local have been employed.

Mushrooming of these kinds of resorts could be attributed to the following facts.

- a) *Inaction of the forest department by not providing adequate accommodation facilities in and around Mudumalai Sanctuary which in turn forms a basis for tourism boom in Masinagudi.*
- b) *Illegal operations of resorts in terms of clearly violating forest laws by organizing night safaris, hunting, trekking in not permissible trek routes, which lures tourist to venture into this kind of adventure tourism.*
- c) *Bird watching camps organized by experts is a strategy being adopted by these resorts.*

All resorts are said to be claiming that strict implementation of environmental guidelines and ethics were the core ideas, which would be forming the basis for establishing eco-tourist resorts. In the name of eco-tourism, development of golf courses, provision of night safaris, bird watching, trekking in to protected forest areas, facilities of Air-Conditioning to rooms, swimming pools, elephant riding- all these activities are carried out by resorts. These resorts are not applying for any kind of permission for launching such a resort business and erecting huge accommodation facilities that are not compatible with any standards but what they do commonly is applying for formal license without furnishing adequate information to the Panchayats and got duly certificate of building licenses after payment of some nominal fee. Panchayats are also granting such licenses with a view to collect some revenues, which are reeling under severe financial pressures and constraints. Diverse linguistic groups such as *Tamils*, *Kannadigas* and Malayalis living together in this village and a large chunk of migrant population mostly Government servants who have thronged this tiny village for working in three power units such as Singara, Moyar and Singara Stage II. Malayalis own all small shops, hotels and motels in Masinagudi.

The traditional cropping pattern has got transformation in the beginning of this century and people earlier cultivated rice, ragi and chamai, now turned to cultivate western (English) vegetable such as potato, cauliflower, cabbage, and carrot.

Tribals are considered as Hindus though they possess and practice distinct culture and rituals to follow that are totally alien to popular so-called Hindu culture.

Eco-tourism also raises some trifling benefits to tribals in terms of providing employment in these resorts. But the facet of this kind of employment is that they have been employed only in house keeping and cleaning activities for meager wages of Rs. 1000- 1500 per month. Local tribals are widely used in the trekking exercises as escort to tourists and there by get some income. This may yield them sum of Rs. 75 to 150 per trip.

Slow but steady pace of urbanisation is also taking place in Masinagudi. Earlier Masinagudi had no shops but now there are 5 mechanic shops catering to needs of local community and passer-by tourists vehicles. The 3 tyre shops are also an effective testimony for the fast pace of urbanisation process. Power projects have changed the outlook of this village tremendously.

The first resort in Masinagudi was developed by the Parsee couple- the Kothawalas in a sprawling 30 acres environ; and has 6 cottages only. They organise wildlife tours, trekking, night safaris and horse riding.







The next resort - Jungle Hut, is run by Mathias, has 8 cottages and has 4 rooms with balconies. They are running this resort without any kind of license like other all resorts. They have a golf course and a swimming pool. They have A/C rooms. The clients for this resort are from foreign countries mostly from European countries and sizable customers are also from domestic elite class.

Forest Hills, another resort, is having 6-8 cottages. They have self-catering for tourists and run bars. The tariff range is in-between Rs. 1200-1500 per day. Bamboo bangs charges Rs. 1800 per day. Casa deep woods tariff rates would be Rs. 2200 per day and is operating on the basis of Time-share.

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Monarch is another resort constructed by a film actor Mithun Chakraborti in an area of 65 acres. It is a huge resort and possesses A/C rooms with Color TV facilities in all cottages.

No guidelines of whatsoever are followed by these resorts in operating all kinds of attractive schemes. The nature of proximity of these resorts' citing to reserve forest and strategic positioning in Nilgris Biosphere Reserve which is known for its biodiversity and ecological sensitivity, is providing an ample space for the following credentials.

-  *Wild life tourism in Mudumalai wildlife and Bandipur sanctuaries.*
-  *Bird Watching*
-  *Night Safaris*
-  *Trekking in all legal and illegal routes*
-  *Illegal Hunting*
-  *Climatic conditions that would suitable to tourists.*

The above factors have contributed to the attraction of high-spending tourists. However, budget tourists cannot afford these types of resorts because of costly tariffs for lodging alone ranges from Rs. 750-2500 per day, excluding taxes, boarding, other transportation, guide charges, trekking charges; all will prevent budget tourists from these kind of resorts.

People prefer this place because of propinquity to Mudumalai Wildlife Sanctuary and the elephant camp in Theppakadu.

In Pokkapuram, large scale land grabbing is taking place incessantly. 1200 acres of land have been classified as private property, out of which Pratap Reddy owns 600 acres. In the northern side Mangal Chand, a Marvari, owns 1200 acres of land; this in violation of the Land Ceiling Laws. . In the Northern Hills of Ooty, 700 acres of land has been notified as private lands. Under Revenue No 315/2, in Pykara-Moyar region, 32000 acres of land has been classified as Revenue Land.

There are 12 resorts or guesthouses operating under this Panchayat. The Information Board, the Government Order (GO) and Notification in the District Gazetteer on the issue of Ban on Plastic are notified outside the Panchayats Building. Masinagudi Panchayat has passed a resolution on plastic ban and plastic ban is enforced with full vigor.

### **The Masinagudi Panchayat.**

Panchayat Union-Gudalore  
Taluk-Ooty  
Zone (Kottam)-Coonoor

Total Area- 33120.18 acres  
Fertile lands-3597.25 acres  
Forest lands-28151.68 acres  
Poramboke lands- 1371.75 acres

Water source-Vazhai thottam  
Total Shops- 78  
Total Villages-6  
Wards- 5

Panchayat Members-12  
Street lights- 156  
Pumpsets-17  
Powerhouses-3

Guesthouses (private)-12

Revenue

House tax                      Rs. 4,10,743

Professional Tax              Rs.2, 80,423

	Male	Female	TOTAL
<b>Population</b>	<b>4506</b>	<b>3508</b>	<b>8416</b>
<b>VOTERS</b>	<b>3606</b>	<b>3508</b>	<b>7114</b>
<b>Educated</b>	<b>2703</b>	<b>1950</b>	<b>4653</b>
<b>SC</b>	<b>1966</b>	<b>1204</b>	<b>3170</b>
<b>ST</b>	<b>989</b>	<b>1229</b>	<b>2218</b>



## Observations of the Local Community noted during the survey

- Tourists in Masinagudi are resorting in activities such as excessive drinking of liquor and engage in prostitution. A large chunk of the domestic tourists are hailing from highly influential section with money and political power.
- Traffic of vehicles by the tourists is posing hurdles to wildlife.
- Between Gudalore to Theppakadu, in Mysore Ooty Ghat road, for the period of three months in 2002 in peak tourist season April-June , nearly 180 wild animals killed by the vehicular traffic.
- In order to extend sanctuary area, further to 240 Kilometres, the Government is attempting to forcefully displace the Adivasis. Local leaders went to the High Court and got stay for the expansion of sanctuary and thus doing favour for the resorts.
- Resorts owners welcomed the government move to expansion of Sanctuary, eyeing on business prospects.
- It is alleged that Mavanalla adivasi women have been forced to involve in sex work by the resort owners to cater to their rich clients who have come here only for indulging in such activities.
- It is also alleged that Resort owners collect huge amounts from tourists for this sex offer and give only very meagre money for adivasi women like Rs.50 or Rs.100 out of Rs.1000 or Rs.1500.
- Police harassment on these innocent tribal women is a regular feature and infliction of these violations and physical violence are common occurrence.
- Open intimidation and threats by the police for these women has been done in this village. But, resort owners who were the sources for these violations have escaped from the law of the land with impunity.

- It has been alleged that Silayan, a tribal had been beaten up till death by resort people when he opposed some shady operations of the resort.

*Lands in Tamilnadu are classified as a) Revenue lands on which ownership lies with the Government under the concept of Eminent Domain b) Poramboke lands are considered as Common lands that also belong to the government but among 64 kinds, some can be reclassified as lands for settlement purpose.*

*c) Private patta lands on which individuals can have ownership but even on these kinds of lands, ultimate ownership lies with the State. d) Reserve forestlands are vested with the forest department.*

## **Findings Of The Survey**

- ♦ For the question of previous land use of the resort, 40% of the resort lands have been agricultural lands previously, 5% of the land has been cattle farm land and private forest was occupied 5% of land. Only in the 5% of land there were lodges. There were buildings and constructions in 15% of land.
- ♦ **90%** of locals expressed that in the last 15 years tourist inflow has been increased whereas 10 % locals only said negatively.
- ♦ 90% of the resorts have been obtained permission from Panchayats 10% of resorts haven't obtained whatsoever permission from local authorities.
- ♦ **72%** of respondents opined that tourism has brought in better infrastructure facilities, **58%** expressed dissatisfaction the way in which civic amenities provided due to impacts of tourism.
- ♦ **15%** of locals said that due to tourism activity, knowledge about local cultures has been enhanced whereas 68% of locals have expressed that tourism has not brought out any opportunities in increasing knowledge about local cultures.
- ♦ **40%** said that tourism has brought in change in the mobility of locals but 43% said that it is not.

- ♦ While only 21% of locals expressed that tourism increased purchasing capacity whereas 62% of locals said that it is not.
- ♦ 59% of people when opined that tourism has created space for exposure to other culture for local people, 24 % of people have expressed that tourism has not created such a space.
- ♦ 64% of locals said that improper land use the result of tourism development in Masinagudi, 68% articulates that tourism has caused pollution, 58% conveys that it resulted in to ground water depletion, 35.5 % utters that it has obstructed elephant corridor, 21% opines that tourists behave in ugly manner, 39% said that tourism development has caused destruction of forest and loss of biodiversity, 40% said that tourism has created a situation in which the price of essential commodities has increased alarmingly, 55% said that it has created changes in employment pattern, 44% expressed that it has lead to the influx of migrant population and 66% said that pressures have been created due to tourism.
- ♦ Only 25 % of resorts in Masinagudi owned by locals and 75% owned by non-locals.
- ♦ The clientele proposition is that 33.32% are foreign tourists and 66.68% are domestic tourists.
- ♦ 0.4 % foreign tourist visits repeatedly and 0.2% only visits repeatedly.
- ♦ The duration of stay of foreign tourists is minimum 2.21 days and maximum 4 days.
- ♦ The duration of stay of domestic tourists is minimum 1.73 days and maximum 3 days.
- ♦ 50% of resort owners report that they are engaging travel agents for promotion of tourist arrivals and 555 employ brochures for the promotion, 35% use web sites for their business promotion, 15% use newspapers advertisements.

- ♦ 29% of hotels and tourism players resorting to pickup at nearest railway stations and 22.58% said that they adopt pickup at nearest city and towns as a strategy, 29.03% adopt package tours from city or town as a strategy and 19.35 % use other different techniques for their business promotion.
- ♦ 55% tourists reach Masinagudi using their own transport mode or vehicle
- ♦ 15% use private vehicle, 5% use vehicle provided by resorts and hotels and 25% use different mode-Public transportation and omni bus facilities.
- ♦ On tourists attractions, 18.18% said that Mudumalai Wildlife Sanctuary is the attraction, 17.17% said that Protected Area is the tourist attraction, 16.16% opined that bird Watching is the attraction, 7.07 said that Ooty has been already spent destination and now totally exhausted on many counts. 5.05 % of tourists are indeed spill over from Ooty and 11.11% tourists opined that due to low number of tourists turn out they prefer this destination. 19.19% said that favourable climate-not too hot and not too cold, the right combination of weather is the attraction for many tourists. 6.06% are saying that many other factors that lead to their visits.
- ♦ On preferences and choices of tourists- 18.81% said that location of the resort is the factor to attract them. 16.83% said that personal services is the attractive feature, 14.85% said that room facility is the best choice for them, competitive price is the critical factor for 13.86% of tourists, 17.82 said that catering and food is the important feature and 14.82 % conveyed that environmental activity of the resort is the one of the choices of the tourists, and 2.97 % are saying that many other reasons were responsible for the tourists attractions.
- ♦ 45% resorts owners said that they use adivasis as guides while tourist opt for trekking and safari.

- ♦ 15% resort use firewood for heating the water, 45% use geysers, 5% use solar energy, 10% use wood and Geyser.
- ♦ Per day water usage of 23 resorts are put to gather **600000** litres.

## Case study #2:

### NAGARAHOLE - adivasis, rights and tourism

#### The profile of Nagarhole

The Nagarhole National Park is located in the Kodagu and Mysore districts of Karnataka. The park borders the Bandipur Wildlife Sanctuary in the southeast and the Waynad Wildlife Sanctuary in the southwest. To the west it is separated from the Brahmagiri Wildlife Sanctuary by coffee plantations. This park got its name from the Nagar Hole ('Snake River' In Kannada), which runs eastwards through its centre. Nagarhole is part of the 4500 sq. kms Nilgiri Biosphere Reserve. It lies between latitudes 11°45'- 12°15' north and longitudes 76°5'-76°25' east. The terrain is gently undulating with a mean elevation of 800-850 metres.

The sanctuary was constituted on 2<sup>nd</sup> July 1955 with an area of 57155 hectares. In 1972, the Government of Karnataka declared 130 sq. kms as the Nagarhole Game Sanctuary. The process of reclassifying, the sanctuary into a national park commenced vide Notification No. FED 195 FWL 82 of 16<sup>th</sup> March 1983 on 1<sup>st</sup> April 1983. It increased its extent to 643.39 sq. kms including 7 ranges i.e. Kakanakote, Metikoppe, Veeranahosahalli, Kalaholla, Nagarhole, Mathigod and Murukal on 8<sup>th</sup> December 1983. The park was renamed as the Rajiv Gandhi National Park on 13<sup>th</sup> May 1992. It covers an area of 643.39 sq. kms. 192 sq. kms. has been identified as the core zone, a tourism zone (in two parts) and a restoration zone (areas not located on the map as yet). The restoration zone is to comprise of those areas which have been totally degraded and need complete protection.

Nagarhole resembles the Deccan Peninsula biogeographic zone in topography, vegetation and animal life.

## Flora:

The predominant vegetation of the park is southern tropical, moist, mixed deciduous type with a substantial eastern portion integrating into dry deciduous type. The upper tree canopy is dominated by *Tectonia grandis*, *Dalbergia latifolia*, *Pterocarpus marsupium*, *Lagerstroemia lanceolata*, *Anogeissus latifolia*, *Adina cordifolia*, *Boombax malabaricum*, *Ficus*, and others. The lower canopy has species such as *Kydia calycina*, *Emblica officinalis*, *Gmelina arborea*, etc. Several shrubs belonging to *Solanum*, *Desmodium* and *Helicteres* family are also found but weedy shrubs like *Eupatorium* and *Lantana* dominate the area.

## Fauna:

The important predators and carnivora in the park are the tiger, leopard, wild dog, sloth bear and hyena. The herbivores found in the park areas are the spotted deer, sambar, barking deer, four-horned antelope, gaur, wild boar and elephant. Other mammals include the common langur, bonnet macaque, civet cat, jungle cat, leopard-cat, mongoose, giant flying squirrel, common otter, jackal, mouse deer, hare and pangolin. Over 250 varieties of birds are also found at the park.

The biodiversity pressures in the park include the loss of crop and livestock, man/animal conflicts, timber collection, grazing, poaching, smuggling and increasing tourism.

For years the forests of Nagarhole were looked upon merely upon as repositories of timber wealth. The area has been extensively logged and substituted by plantations, primarily teak covering an area of 90 sq. Kms and rosewood. Together they constitute about 15% of the area. In recent years, the increasing acceptance that nature's balance should not be tampered with, has led to the cessation of timber operations in the core area.

## Profile of the Adivasis in and around the Park

The State of Karnataka has a scheduled tribe population of 19,69,993. 75% of them live in the Western Ghats, namely the Jenukurubas, Bettakurubas, Yeravas, Soligas and Paniyars.

*4.38% of Karnataka's population-1991 census*

## **Demographic profile:**

A total of about 32000 adivasis reside in and around the National Park, spread over three taluks of Virajpet (Kodagu District), H.D.Kote and Hunsur taluks (Mysore District). The number of haadis (villages) is 138 of which 58 are in the National Park. Of the 58 within the park, 33 are in the Virajpet taluk, while 22 in H.D.Kote and 3 in Hunsur. Within a five-kilometre distance from the park boundary, another 23,000 adivasis reside in 90 haadis spread out over four administrative zones. Literacy rates among elderly persons are 3%, adults are about 10% and among children it is 50%. Most of the adivasis depend on their traditional methods of health care. However, allopathic medical facilities are available at a distance of 20 kms from the park.

Resident tribes of the area are the Jenukurubas (Honey gatherers), Bettakurubas (Hill Kurubas), Yeravas, Soligas and sub castes of Yeravas i.e. Panjeri Yeravas and Pani-Yeravas.

### **Jenukurubas:**

The Jenukurubas are the dominant tribe of the area and are primarily hunters/ gatherers. They earn their name from the fact that they are expert gatherers of wild honey.

### **Bettakurubas:**

The Bettakurubas specialise in the crafting of bamboo utensils.

### **Yeravas:**

The Yeravas are the fishing community. They also practise sustenance agriculture.

### **Soligas:**

The Soligas are food gatherers who have also diversified into marginal agriculture and pastoral activities.

## **Primary Occupation:**

Their traditional rights of access to the forest and its resources have been severely curtailed subsequent to the declaration of the National park. Each time the area was extended, the community were pushed further away from

livelihood and have been absorbed as cheap and exploitable daily wage labour in the nearby coffee plantations. Some of them are employed by the Forest Department for the upkeep of the Park. However this employment is seasonal.

### **Genesis of conflicts: the declaration of National Park**

Two decades ago non-Adivasis had commenced encroachment and have managed to get title deeds for about 250 acres. The outrightly colonial Wildlife (Protection) Act, 1972 provides for the extinguishing of all rights of local inhabitants in National Park, in effect prohibiting habitation itself with the resultant eviction. Since 1963, the Adivasis living in the core area have been systematically pushed to the fringes. In the 1970s about 900 families and in the 1980s about 320 families from various villages have been pushed out to locations ranging from 1 km to 12 kms. Without any compensation, they have been reduced to living in ghettos, of which some are government sponsored, and restricted from their ancestral lands. Before 1972, the people were exploited and were forced to become labourers for the Forest Dept. Since 1972, around 6000 people have been pushed out and the remaining are being seen as encroachers. They have become labourers in estates. Their lands have forcibly been prevented from cultivation and instead planted with teak, bamboo and eucalyptus. Trenches have been dug up by officials cutting across their fields and paths, constantly harassed for utilising forest resources for meeting their basic needs, denied of development programmes, etc resulting in hunger deaths and malnutrition. They are also blamed for death of wildlife, constant destruction of the protective fences for their crops, planned trampling of cultivated crops by domesticated elephants. The adivasis, especially the women, have had to face a number of atrocities by the forest officials. They have been molested, harassed, beaten and locked up in the name of forest offences.

### **Genesis of conflicts: India Eco-Development Project**

India signed the Biodiversity Convention at Rio in 1993. As part of the convention the Global Environmental Facility (GEF) was set up. India's biological resources are considered 'economically' important both globally and nationally by the World Bank. The importance attached to these natural resources has prompted the World Bank to aid a Rs. 294.9 crore project. The Eco-development project in seven 'protected areas' i.e. sanctuaries and national parks, from all over India was to commence in January 1997



after having been approved by the International Development Association (IDA) and the GEF on September 5<sup>th</sup>, 1996. The project was slated to meet the expenses for project preparation, improved protected area management, village eco-development, education, and awareness, impact monitoring and research, overall project management and preparation of future biodiversity projects. The Indian Institute of Public Administration (IIPA) drew up the project in November 1993 and the agreement was signed on the 28<sup>th</sup> July 1996. The sanctuaries and national parks identified are Buxa Tiger Reserve (West Bengal), Gir National Park (Gujarat), Palamau Tiger Reserve (Bihar), Pench Tiger Reserve (Madhya Pradesh), Periyar Tiger Reserve (Kerala), Ranthambor Tiger Reserve (Rajasthan) and Nagarhole National Park (Karnataka).

The Bank's Operational Directive 4.2 on Indigenous People (IP) is to ensure that the IP do not suffer adverse effects, that there is informed participation and that they benefit. 4.3 on Involuntary Resettlement provides guidelines and principles like the improved relocation or at least restore economic base and living standards, involvement of the project affected in resettlement and a compensation package. Intense criticism on the destructive impact of WB projects in the past and sustained resistance from the project affected leading to huge cost over-runs and hence, reduced economic viability, had forced the Bank to introduce these directives. The Karnataka Government confirmed that since 1994 reappraisal, they have not initiated any activities that could be considered as implementation of a resettlement plan that has not been reviewed by the Bank. In Nagarhole, the total population of the project area was estimated to be 72,652. The Forest Department had prepared a proposal to relocate all the 6145 adivasis. The proposal is to resettle the people in the H.D.Kote Taluk. Majority of the people have already experienced displacement more than once when the area was declared a sanctuary and major dams were constructed across the rivers Kabini, Tharaka and Nugu. However, the resettlement could not be carried out for a number of reasons, primarily the resistance to the relocation plan itself from the people and the non-release of funds from the Centre. The World Bank has insisted that no "involuntary resettlement" will take place as per their directives and that any such process would be after the consultation and participation of the adivasis.

The *adivasi* leaders had met the World Bank Inspection Panel, which visited Nagarhole during the first week of September 1999. They had

explained in detail the harassment and pressures exerted by the forest officials, the departments strategies to divide the Adivasis and also the sudden emergence of dubious associations in the name of *Adivasis* ever since the Eco-development project was proposed. What the *Adivasis* are seeking is self-rule that has the constitutional support. Where people's participation in preserving and managing the nation's forest cover shall be the model. The *Adivasis* of Nagarhole asserted to the World Bank inspection panel that all they wanted was a dignified life, but not the World Bank's money.

### **Restrictions on adivasis due to the implementation of the Eco-development Project**

As a result of the declaration of the area as a National park and the highhanded actions of the Government in terms of attempting resettlement without understanding the sensitivities or specificities of the issue, the adivasis have been the losers. **The following restrictions illustrate** the process by which their sustenance and cultural base has been eroded and attempts to squeeze them out of the park have been made:

1. No cultivation of any kind.
2. Livestock and dogs are not allowed to be kept by the adivasis.
3. No hunting is allowed.
4. No renovation of houses is allowed.
5. No digging of borewells.
6. A total ban on collection of minor forest produces like tubers, mushrooms and other wild vegetables and fruit.
7. No entry to their sacred sites and burial grounds.
8. A ban on their traditional music and dance forms.

### **Genesis of conflicts: Gateway Hotels and Getaway Resorts**

Awarded the contract from the Forest Department of Karnataka to run the jungle lodge in Nagarhole in 1994, the Gateway Hotels and Getaway Resorts, an associate company of the Taj Group of Hotels was determined to position the lodge as India's first eco friendly resort.

On 28/6/94, the Forest Department and the Taj Group registered a lease agreement taking over this land. The details that we decided on are as follows:

Area	:	24 acres
Lease	:	18 years

Amount	: 7 crores
Accommodation	: Bungalows, Conference halls, bar and resort
Services	: Elephant and other safaris
Grade	: 3-star
Rate	: 800 per day per person- single room/ cottage (US \$235 is the proposed tariff of the single occupancy which excludes food and drinks and other expenses in the resort)

Parties to agreement : PCCF, Chief Wildlife Warden, Taj Group of Hotels

The proposed Taj Resort at Murkal in Nagarahole is attempting to cash in on the novelty of “luxury wildlife tourism” by building a three star resort in a National Park. In their brochure, the hotel group states, “presenting India's finest wildlife lodge located in India's first biosphere reserve... The Getaway Tusker Lodge, set inside the Nagarhole National Park offers various kinds of accommodation beautifully designed and equipped with modern facilities like individual sit outs and attached bathrooms. There are 36 Deluxe rooms, 6 terrace suites, 9 cottage suites and 4 standard rooms. For dining the Lodge has a dining room that extends out onto the deck and serves Indian and International cuisine. “The other facilities that are to be offered are a lounge cum library, a lobby bar open all day for drinks and snacks, shop selling eco-friendly handicrafts, apparel and souvenirs. The Taj Group states, “ the serene setting of the lodge amidst nature also makes it an excellent location for strategy meetings and small reflective conferences. The Lodge has a large conference room.... audio visual equipment including a slide projector, overhead projector, photocopier, fax facilities, T. V, video and other state of the art equipment is available.

***Commitment to the Environment:*** The focus has been to ensure that no resources are used from the local forest and the wood used in the hotel structure has been imported from Malaysia.

The other aspects looked into by the Taj team was to ensure its objective of eco-friendliness in the following areas:

- Roofing
- Reduce, Reuse and Recycle in areas of water, energy, noise and waste
- Planting of native species
- Education: Guests and Staff
- Commitment to the Society: encouraging adivasis to use their traditional methods of bee-keeping, subsidised boarding and lodging facilities to be available for students and budget travellers, slide show, library and trained team of naturalists to ensure an educational trip, a ayurvedic herbal centre and gift shop that would stock organically grown vegetable and other items using vegetable dyes and eco-friendly items.

## Growing resistance

Organised resistance to various human rights violations emerged in the later part of 1980s with the emergence of Budakattu Krishikara Sangha- an organisation of Adivasis in the belt. Armed with the draconian Wildlife Protection Act, 1972, the government and forest department could evict summarily 6000 Adivasis residing in the areas during the 1970s and 1980s. With the prospects of the World Bank eco-development project bringing a bounty in millions of dollars, pressure to force them to abandon their habitats was stepped up. But organised resistance from the people and support arm tactics which the forest department adapted at and used to could no longer be kept hidden from public scrutiny like in the earlier days. The neo-colonial character and interests of project naturally strengthened the arms of the state and the forest department against the original inhabitants of Nagarhole. With increased stake, newer stakeholders began ganging up for the total colonisation of Nagarhole. With over 30,000 visitors to this high density wildlife park, the liberalisation of the economy and with the highly lucrative tourism industry being given favourable terms on a priority basis by both the centre and state, the Taj group of hotels decided to corner this mostly untapped (eco) tourism potential even before the inhabitants could be pushed out with assured support from the Bank.

Murukal Jungle Resort was set up inside Nagarhole close to the core zone by the Karnataka Forest Industries Development Corporation (KFIDC). Being unable to run it, which is not surprising, KFIDC handed the resort over to the Taj Group on lease for an amount of Rs. 1.25 lakh per month. The Taj group had planned a Rs 40 crore project, with the government providing a 20% subsidy. The area was initially leased to a sawmill.

When this failed the government decided to build guesthouses. The government was unable to run these guesthouses as well.

With the issue of self-rule spearheaded by the National Front for Adivasi Self-Rule spreading in the Adivasi belts of the country in '95-'96, the campaign and protests against the eco-development project in Nagarhole intensified from early 1996. While the impending agreement with the Bank for the eco-development project by mid-1996 threatened to hasten the displacement of Adivasis of Nagarhole, the commencement of the so called 'renovation work' in the existing buildings at Murukal in August 1996 for the high bracket tourists exemplified the gross injustice in stark contrast. The Adivasis responded with protests against the Taj by blocking the construction. Taj was however determined to go ahead with the construction. The general guideline that forestland should not be alienated for non-forestry purposes under the Forest Conservation Act, 1980 seems to have been given a go by. Discouraging the setting up of hotels, resorts and other industries inside and near National Parks and that too near the core zone has in this case also has been discarded. With Taj reviving the construction in end of December, the people resolved to prevent this. The authorities decided to back Taj.

### **Legal interventions**

In November 1996, concerned NGOs and Adivasi organisation came together to file a petition in the Court against the Karnataka Forest Department and the Taj Group of Hotels. The following are list of petitioners and respondents of the case.

#### **Petitioners**

- Nagarhole Budakattu Hakku Sthapana Samithi- Represented by Nagarhole Adivasi Haadi and Post, Coorg.
- Adivasi Joint Action Committee Karnataka, represented by DEED, Mysore.
- National Alliance for People's Movement, Bangalore.
- Coorg Organisation for Rural Development (CORD), Kodagu District

#### **Respondents:**

- State of Karnataka  
Represented by Secretary, Department of Forest, Ecology and

Environment, Bangalore.

- Principal Chief Conservator of Forest and Chief Wildlife Warden in Karnataka, Bangalore.
- Karnataka State Forest Industries Corporation Limited, Represented by the Managing Director, Bangalore
- Karnataka Forest Development Corporation Limited  
Represented by the Managing Director, Bangalore.  
M/s. Gateway Hotels and Getaway Resorts Ltd., Mumbai.

## Profile of petitioners

**Nagarhole Budakattu Hakku Sthapana Samithi** is an exclusively Adivasi organisation promoted for the welfare of the adivasis of the Nagarhole National Park. It has undertaken a series of activities to promote ecofriendly programmes among the adivasis and to protect rights of the adivasis over the park and its produce. These adivasis have enjoyed right of forest produce from time immemorial and have been the guardian of the ecosystem, which they have preserved since the time of their ancestors.

**Adivasi Joint Action Committee** is a network of NGO activists in the Adivasi belt of South India.

**National Alliance for People's Movement** is a national network of peoples' movement, which has taken series of programmes to protect and preserve the environment and to prevent and damage to the ecology in the country. It has supported movements by the indigenous people to protect their right over natural resources.

**Coorg Organisation for Rural Development (CORD)** is an organisation involved in though development work in the Nagarhole area. It is a registered society under the Karnataka Societies Registration Act.

**The other organisations that have supported this movement are:**

**EQUATIONS:** Established in 1985, EQUATIONS, is a non-profit organisation that investigates impacts and alternatives in tourism policies and structures. The present form of tourism raises serious questions regarding its real benefits, as also its socio-economic impacts on host communities. Our work focuses on tourism concerns in India and the developing world and includes documentation, publications, research, seminars, networking, advocacy and lobbying for tourism that is more just,

culturally appropriate, and equitable.

## **Adivasi Organisations:**

**Fedina Vikasa** at Heggada Devana Kote (H.D.Kote) in Mysore District has been working with the adivasis, both within and outside the National Park area, which lies in Mysore District, since more than eight years. They have actively participated with other groups in establishing the rights of adivasis to natural resources including the present struggles in National Park area.

**Rajya Moola Nivasi Budakattu Janara Vedike** : This is the State level Organisation of adivasis which has taken up issues of central concern to the adivasis such as the Bhuria Committee Report, scheduling of areas and non adivasis claiming to be adivasis to corner the benefit.

**Budakattu Krishikara Sangha (BKS)** covering both Kodagu and Mysore districts: This premier organisation of adivasis has laid the foundation for effective coming together of adivasis for both developmental and environmental matters. Both, these organisations have been working to organise the Adivasi communities for taking up challenging issues like the Nagarahole National Park and Taj Resort and have formed the following group for this purpose.

## **Background of Legal Intervention**

The NGOs and the Adivasi organisations have protested against the project and have arranged series of agitations by holding dharnas, resorted to rasta roko and picketing of Government offices.

The scheduled property forms an integral part of the National Park and is located close to the core of the park. Extensive damage has already been done to the bio-culture of the park by seriously affecting the flora and fauna of the park. Initially it started as a public sector project by KSFIC, the land was then gradually privatised by putting it into the hands of the Taj Group. The scheduled property was transferred by the State of Karnataka in favour of KSFIC as early as 27/3/75. This property has not been divested from the said corporation much less was it transferred in favour of the Karnataka Forest Development Corporation Limited. Be that as it may, after making huge investments and development of good infrastructure, the property was then leased in favour of Gateway Hotels and Getaway Resorts in terms of the lease deed. This was preceded by several orders of the Government

dated 21/7/92, 30/8/92 and 1/12/93.

The entire project had been conceived and the proceedings were done in a highly secretive manner by holding the details of the project from the public. The Gateway Hotels had started laying new roads to provide access to every nook and corner of the National Park through motor vehicles, which would also be a serious source of criminal activity to enable poaching of the wildlife and removal of the forest produce. This would seriously hamper the promotion of the wildlife management of the national park with serious adverse impacts on the social and environmental front.

The proposed project is a three star hotel, mainly to cater to the needs of international and Indian tourists whose needs are consumptive, especially when they stay in such luxury amidst nature. It is a great travesty of justice that indigenous people have been evicted out and that same area is now being used to provide holiday luxury resorts to such tourists. Besides the disastrous effects that would ensue if the project was commissioned, this project would be a grave nuisance to the flora and fauna of the area. The activities, which involve movement of men and materials, installation of high-sounding generators, throwing of waste from such activities in and around the park will cause all sorts of pollution. The air and noise pollution that this project would produce is by itself sufficient to destroy whatever is left of this bio-culture.

The project was for a non-forest purpose and it had been undertaken notwithstanding the total prohibition against such projects under the law. The Resort had not taken prior approval of the Central government before venturing on this project as required U/s 2 of the Forest (Conservation) Act, 1980. The project is being commissioned notwithstanding the total prohibition against such projects under the provisions of the Wildlife (Protection) Act, 1972, Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986. They have not complied with any of the mandatory requirements under the said Acts before embarking upon the project.

### **Grounds for Appeal**

- The respondent State and its functionaries are under a constitutional obligation to protect the wildlife and to preserve ecology.
- U/s 35 of the 1972 Act, a National Park enjoys all the protection of a



Sanctuary provided U/s 27, 28, 32, 33, 33A and 34 of the Act and therefore all prohibitions imposed therein are also imposed against this kind activity in the National Park. In view of the fact that a star hotel in a National Park is totally prohibited, the action of the respondents is wholly without authority of the law and is ultra vires section 35 of the Act.

- Commissioning of a star hotel or a holiday resort is a non-forest purpose. No such activity can be undertaken much less any forestland in violation may be used for a non-forest purpose. No forestland in violation thereof may be assigned by way of lease or otherwise to any private person not owned, managed or controlled by the Government. The Taj Group is not an organisation owned, managed or controlled by the Government.
- In view of the fact that the project is a serious threat to the bio-culture of the National Park and to the environs of the park, it is wholly impermissible for the respondent to commission any such project in the midst of the National Park. This action is therefore ultra vires of EPA, 1986 since it is not preceded by compliance of any of the mandatory requirements under this Act. Displacing the adivasis from the National Park and providing a holiday resort for leisure loving people with consumptive taste is a serious violation of constitutional guarantees given to the adivasis under Article 21 to preserve their culture and source of livelihood. Not only is the project a serious violence on the adivasis and their culture but it is also directly opposed to public interests. The threat posed to the flora and fauna of the National Park is itself a violation of the right of all living beings guaranteed under the Constitution especially regarding prevention of cruelty to animals. The impugned action is therefore arbitrary, capricious and whimsical and violative of the rights guaranteed to the adivasis of the Nagarhole National Park and other living beings under article 14 of the Constitution.
- There are already a sufficient number of government lodges and holiday resorts around the National Park like the Jungle Lodges and Resorts near the Kabini river. More resorts of this sort will only put unnecessary pressure on the resources of the park. In view of the fact that there are enough rest houses, the impugned project is initiated solely with the object of providing for a commercial venture to the Taj Group. Looking at the investment already made by the State of Karnataka and the Forest Department on the existing

infrastructure, the consideration for the lease is a pittance and is not a valid consideration. It is not in public interest and the interest of the park and wildlife in mind. The project was out an out commercial venture at the cost of the bio-culture of the park and natural resources of which the people of Karnataka in general and the adivasis of the park in particular are the real owners. The adivasis who have been uprooted from their social and cultural moorings on account of covering this area under a National Park have a right for restoration of their right to livelihood and their culture in their environment in which they have lived for thousands of years.

- The lease disallows for the construction of new structures. The NGOs and the Adivasi organisations have alleged that under the guise of renovation of the structures the company has constructed new structures and tarmac roads extending its operational activities to forestlands, which is not allowed under the lease. They have also alleged that powerful generator sets have been installed which in due course will severely affect the unhindered natural lake. The Group has seriously repudiated the allegations that they have cut any tree or are trying to make new metalled roads. According to them the have only placed boulders on pre-existing jungle pathways to make the roads motorable for an easy access to the resort.
- Section 28 of the WPA Act, 1972 refer to a “grant of permit that the Chief Wildlife Warden can grant to any person to enter or reside for even the purposes of “tourism”. But this does not authorize the Chief Wildlife Warden to enter into a lease agreement regarding the same with a “private hotel chain”. This section merely elaborates on the discretion with the Chief Wildlife Warden to grant permits but does not cover the “setting up of tourism infrastructure”. Tourists may be allowed but where is the power to allow private touristic ventures in this section.
- As regards “gross violation of fundamental rights”, the right to environment implicit in Art 21 of the Constitution is definitely affected by this negligent act of setting up a three star resort in a pristine ecosystem. In addition this affects the rights of adivasis and their right to their cultural integrity Art. 14 is attracted by the government duplicity and arbitrariness in using the WPA Act to try and evict the adivasis and at the same time allow “three star toruistic commercial ventures” inside in violation of the prohibitions in the Wildlife Protection Act, 1972.

The state government should have suspended the lease order and taken over the land on behest of the High Court judgement itself. Instead it opted to back the hotel group hoping that the Supreme Court judgement would end up in their favour. It was then that the Central Ministry asked the State Government to reclaim the land leased out to the hotel group. Even then the state did not act. In fact it wrote back to the Central Ministry that the project has the backing up of the Government's Committee on Wildlife Tourism and hence the project be allowed. The consequence of this was a second letter from the Chief Conservator of Forests (Centre), South Zone, October'98 denying permission for the Taj project. Rejecting the Karnataka Government's plea, the letter asked that "the responsibility for the deliberate violation of provisions of Forest (Conservation) Act, 1980, be fixed and action taken or proposed to be taken against the official concerned be reported within a period of 30 days".

It was also observed that the Karnataka Government had flouted even the recommendations of the Committee on Wildlife Tourism. The Committee had objected various constructions including swimming pools, conference hall, bar and tennis courts. The capacity of the complex and the buildings were also not in harmony with conservation of wildlife and ecosystem, it was pointed out. The No Objection Certificate granted by the Pollution Control Board was against certain conditions, which required additional forestland if it were to be complied with. The Committee had also imposed conditions on the government and Wildlife Wing if the project was to be continued. It asked the Wildlife Wing to obtain guidance from National Museum of Natural History, New Delhi to convert the hotel into an 'orientation centre'. It had put 12 conditions to the Karnataka Government namely; converting conference hall and board rooms to orientation and wildlife/environmental education centre, abolition of bar facility, scrapping of tennis court project, freezing capacity level to 128, scraping of proposal to air conditioning and diesel generators. The visitors' number was also to be restricted to 100 per day. But these conditions were not agreeable to Taj Hotels. It was in these circumstances the letter of Karnataka Government seeking permission was rejected by the Centre.

## Judgement

On 20<sup>th</sup> January 1997 the writ petition no. 31222 of 1996 was taken up and the judgement passed. The outline of the judgement of Justice Bharukha in the above case is as follows:

## Technical Grounds

- The Respondents i.e the Government and the Taj Group claimed that the petitioners had no locus standi. The court rejected this. The petitioners had also produced signatures of almost 3000 adivasis from three taluks around Nagarhole stating that this was done with their knowledge and consent.
- On the ground of “malafides”, the Court held that it was not proved.
- The respondents also contended that there was a delay in protesting against the issue and filing the petition but this was wholly rejected

## The Main Grounds on which the final order was passed

- Under the Wildlife Protection Act, 1972 there is a complete bar on accrual of rights after an area has been declared as a “ National Park”. As per its protected status there is no question of rights, in, on or over the land in a National Park, being vested in any party.
- The Forest Conservation Act, 1980 requires that Central Government permission be obtained before “an interest is created in private party by lease or otherwise.” In this case it was held that the provision was mandatory and had been violated. The term “assignment” would cover instances of leases, licenses, easement rights.
- The Court has held that “forest land”, be it denuded, degraded would still be “forest land” and this is in consonance with Supreme Court verdicts on the issue.

## Final Order

- The property must revert back to the State Government and possession must be handed over as the lease is illegal and void
- All construction must cease immediately as per the Godvaranian Case in the Supreme Court
- Costs to the tune of Rs. 10,000 must be awarded to the petitioners

What happened in court was just a sideshow. The real struggle was in Nagarhole. On December 23, the Taj Group resumed construction using State Police Forces. The adivasis protested against this and were arrested for it. Women, children outran the police who were due for their yearly

The centre has recently passed a law recognising "adivasi panchayats and self governance" (*The Constitutional Provisions relating to Panchayats (Part IX of the Constitution) Extension to the Scheduled Areas Bill 1996*). The law was passed on 24 December 1996. This law apart from recognising adivasi self-governance deals with the issue of land alienation and prevents the same if it contradicts and is not in consonance with the cultural base and traditions of Adivasi communities. The law also recognises customary rights over natural resources. The World Bank eco-development projects and eco-tourist opportunists like the Taj group violate the spirit of this Act as it directly threatens their rights over natural resources and preserving their cultural identity, traditions and their homeland.

Adivasis of Nagarhole have started working on getting this operationalised and simultaneously their peoples' plan for protection of their culture and the environment of their homeland is underway. The adivasis are reclaiming their homeland, reclaiming their jammas (community commons), reviving their cultural identity, planning regeneration using their traditional wisdom and restoring the area to what it was in the time of their ancestors.

The Taj group has approached the Supreme Court against the High Court Order. The case is still pending for final orders. But in the meanwhile the Central government has stepped into the scene quite emphatically. In a letter on May 28, 1998, Chief Conservator of Forest of the Ministry of Environment and Forests (Central Government) Mr. Saxena directed the state government to reclaim the land leased out to Taj group *within 45 days*. The Centre also sought a report *in 60 days* from the state government on the action taken against the officers involved in leasing the land to the hotel group. "The responsibility for the violation of the Act should be fixed and action taken or proposed to be taken against the concerned officers be reported within 60 days" the Chief Conservator Mr. Saxena observed. The letter also pointed out various incongruities of the Karnataka Government's actions for example, 'factually incorrect' claim made in the High Court that some forest officials have accommodated the hotel in the forest area implying that the state government was not fully aware of the goings-on; non-consideration of the warning of Karnataka Forest Development Corporation (KFDC) that the Central Government's approval was necessary to lease the forest land for private ventures, that the court was 'kept in the dark' of the constructions made by KFDC between 1986 and 1989, and so on. The letter goes on to state that the guidelines of Ministry of

Environment and Forests on Eco tourism, clearly enunciates the principle that tourism activities is permissible with an understanding that these areas are primarily meant for conservation.

## Learnings

The Nagarhole legal interventions was the first of its kind in India and it set a precedence for the use of protected areas and national parks for eco-tourism development. A struggle of this kind was possible because of regular co-ordination among the groups and also by the transparency maintained in relation to the happenings.

The entire struggle at the Nagarhole National Park was two-pronged. On the one hand, there was the optimal usage of the existing systems (legal, media) and on the other the optimistic spirit with which the struggle were kept alive on the ground.

The struggle on the ground by the tribal community and simultaneously the usage of systems, hand in hand had positive impacts on both fronts. The reports in the media about the struggle and presence of large number of community members in the court while the hearing of the case was on had contributed to raising the emotions in favour of the community and the struggle. While, even a small positive verdict from the legal sphere became an inspiration to the people to emphasise that their struggle was just and in accordance with the larger systems.

The verdict of the court was able to bring out certain crucial aspects to the notice of agencies and departments such as the Ministry of Environment and Forests (MoEF) both at the central and state level and the Forest Department, Karnataka. Among them were the validity of the laws, its violations and the abuse of powers that are vested with officials that deal with projects of this magnitude, which have much larger implications.

## 2.9 International covenants

### *The Convention on Biological Diversity (CBD)*

The Convention on Biological Diversity was negotiated between 1987 and 1992 under the supervision of the United Nations Environment Program. The preparatory work for formulating the Convention was done by IUCN The World Conservation Union and the Food and Agricultural

Organisation. The Convention was formally adopted by the member states on 22 May 1991 in Nairobi and it was opened for signature at the United Nations' Conference on Environment and Development (Rio Summit) held at Rio de Janeiro between 3<sup>rd</sup> and 14<sup>th</sup> June 1992. The Convention was first signed by 157 states at the Rio Summit and then by another nine states. As per Article 36 of the Convention, thirty ratifications, acceptances, approvals or accessions were needed for the Convention to be enforced and this took place on 29 December 1993. By 31 January 1995, 179 states had signed the Convention and 102 states have ratified, acceded or approved it. India ratified the Convention in 1994. The objectives of the Convention on Biological Diversity are:

- a. *The conservation of biological diversity*
- b. *The sustainable use of its components*
- c. *The fair and equitable sharing of benefits arising out of utilisation of genetic resources*

## **The Convention on Biological Diversity and Tourism**

The tourism topic was discussed at the Ministerial roundtable at the Fourth Conference of the Parties COP-4 to the *Convention on Biological Diversity* in May 1998 at Bratislava for the first time. Considerable debate existed on how seriously tourism would feature in future negotiations on biodiversity. However, uptake on tourism issues by the UN Commission on Sustainable Development in 1999 injected new clarity to the process of strengthening international standards for the tourism industry. The first substantive discussion on tourism and biodiversity occurred during the Fourth meeting of the CBD's Subsidiary Body on Scientific, Technical & Technological Advice (SBSTTA-4) in Montreal in June 1999. Here, Parties to the CBD began to exchange views on how to integrate biodiversity into national policies, programmes and activities for the tourism sector.

A major event concerning tourism in the interval between COP-4 and SBSTTA4 was the declaration by United Nations of 2002 as the 'International Year of Ecotourism.' While this announcement promised to focus more attention on tourism, it was to be assumed to promote biodiversity conservation. Organisations working on the ground i.e., at the ecosystem level continue to document the devastating social, cultural, and ecological losses linked to most types of ecotourism, without any real opportunity or authority to convey this information to the government

decision makers. The questions that were raised by local groups in relation to this were:

*Action Required for Sustainable Tourism as suggested by the ongoing process on CBD*

Basic inventory questions that need to be asked by Parties to the CBD, include;

- *Degree of Transparency:* whether Indigenous peoples and other local communities are being pushed into a reactive or defensive position vis-à-vis the tourism industry?
- *Effectiveness of Dialogue:* whether the dialogue process itself infringes on the traditional resource rights of IPs and local communities?
- *Level of due diligence:* does the existing dialogue framework promote outcome that are consistent with the CBD, i.e. a precautionary approach?
- *Quality of Interim Measures:* is industry self-regulation impacts on cultural and biological diversity that are common to consumer-driven tourism? (Johnston, 2000)

Against this background, at the International Conference of Environment Ministers on Biodiversity and Tourism, 6<sup>th</sup> - 8<sup>th</sup> March 1997, Berlin, Germany, the participants met to share experiences and to work together on the subject of Tourism and Biodiversity, the result of which was the Berlin Declaration.

Followed by this, were the formulation of recommendations and objectives for the CBD COP-5. In paragraph 2 of its decision V/25, adopted at its fifth meeting, in May 2000, the Conference of the Parties to the Convention on Biological Diversity accepted "the invitation to participate in the international work programme on sustainable tourism development under the Commission on Sustainable Development process with regard to biological diversity, in particular, with a view to contributing to international guidelines for activities related to sustainable tourism development in vulnerable terrestrial, marine and coastal ecosystems and habitats of major importance for biological diversity and protected areas, including



fragile riparian and mountain ecosystems, bearing in mind the need for such guidelines to apply to activities both within and outside protected areas, and taking into account existing guidelines”.


The Conference of the Parties further convened the *Workshop on Biological Diversity and Tourism in Santo Domingo from 4 to 7 June 2001* at the kind invitation of the Government of the Dominican Republic and with financial support provided by the Governments of Germany and Belgium. The purpose of the Workshop was to develop the draft international guidelines contemplated in decision V/25, paragraph 2.

*The key conclusions from the analysis of the CBD Guidelines on Biodiversity and Tourism are:*

- Principles and guidelines on sustainable tourism acknowledge the importance of biodiversity, but guidance so far available is very general and detailed technical guidance is needed on how to implement and manage tourism in relation to biodiversity;
- Guidelines that are formulated specifically on tourism and biodiversity focus mainly on protected areas and the requirements of protected area managers;
- All the principles and guidelines analysed contain extensive common and complementary elements - no cases were found where one principle or guideline was in conflict with another;
- There are no internationally-accepted guidelines currently available that provide a fully integrated approach to the general management of sustainable tourism and biodiversity, and which address the technical issues of implementation of internationally-agreed principles in these areas.

The management process steps for the management of sustainable tourism and biodiversity listed in the workshop:

1. Institutions
2. Baseline information and review
3. Vision and goals
4. Objectives
5. Review of legislation and control measures
6. Impact assessment

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7. Impact management
  8. Decision making
  9. Implementation
  10. Monitoring
  11. Adaptive management
  12. Notification process and information requirements for notification
  13. Public education and awareness raising
  14. Capacity building

The guidelines aim to cover all forms and activities of tourism, which should all come under the framework of sustainable development; in all geographic regions. These include, but are limited to conventional mass tourism, ecotourism, nature and culture-based tourism, cruise tourism, leisure and sports tourism.

The **CBD** *recognises* the need to ensure that tourism is developed and managed in a manner that is consistent with, and supportive of, the objectives of the Convention on Biological Diversity with regard to the conservation of biological diversity and the sustainable use of its components, as well the basic concepts underlying the implementation of the Convention, such as the ecosystem approach and the sustainable use of biological resources, as well as guidelines concerning the respect, preservation and maintenance of knowledge, innovations and practices of indigenous and local communities for their well-being and survival.

The **CBD** affirms the need for benefits of tourism to be shared in a fair and equitable manner with indigenous and local communities involved in, or affected by, tourism development, and which therefore share in the costs of such development.

## **II. National Biodiversity Strategy and Action Plan (NBSAP) of India**

### **Background of the NBSAP Process**

The National Biodiversity Strategy and Action Plan (NBSAP) of India is one of the world's largest environment/development planning exercises. A project of the Union **Ministry of Environment and Forests (MoEF)**, the ongoing NBSAP aims to produce a series of planning documents relating to ecological security and livelihoods of people most dependent on natural resources. The project is funded by the Global Environment Facility through the **United Nations Development Programme (UNDP)**. The project is undertaken as a commitment under the Convention on Biological Diversity (CBD).

The Convention on Biological Diversity was negotiated between 1987 and 1992 under the supervision of the United Nations Environment Programme. The preparatory work for formulating the Convention was done by IUCN The World Conservation Union and the Food and Agricultural Organisation. The Convention was formally adopted by the member states on 22 May 1991 in Nairobi and it was opened for signature at the United Nations' Conference on Environment and Development (Rio Summit) held at Rio de Janeiro between 3<sup>rd</sup> and 14<sup>th</sup> June 1992. The Convention was first signed by 157 states at the Rio Summit and then by another nine states. As per Article 36 of the Convention, thirty ratifications, acceptances, approvals or accessions were needed for the Convention to be enforced and this took place on 29 December 1993. By 31 January 1995, 179 states had signed the Convention and 102 states have ratified, acceded or approved it. India ratified the Convention in 1994. The primary focus of the Convention is to provide a broad global framework for developing measures for the conservation of biodiversity. The Convention expects the signatory states to develop necessary measures within this framework, which will facilitate the achievement of the objectives that the Convention sets out. The states are to design and develop a national strategy for the conservation of biodiversity and suitable use of biological resources.

Article 6 of CBD stipulates that each Contracting Party develops National Strategies, Plans and Programmes for the conservation and sustainable

use of biological diversity or adapts for this purpose existing strategies, plans or programmes which shall reflect, *inter alia*, the measures set out in this Convention relevant to the Contracting Party concerned; and integrates as far as possible and as appropriate, the conservation and sustainable use of biodiversity in the relevant sectoral or cross-sectoral plans, programmes and policies.

National level policy processes in the past have often been top-down and limited to a small number of 'experts' and consultants...and as a result, have often ended up remaining on paper, or being irrelevant to the lives of the ordinary citizen. Such processes have also tended to remain within the narrow compartments of "environment" on the one hand, or "development" on the other, with very little interplay between them.

In a radical departure from established norms, the NBSAP planning process has started from several decentralised sources, and is attempting to redefine the development process itself by showing ways of making it ecologically and socially more sensitive. The process involves the preparation of:

- 18 local action plans, involving micro-planning processes at village to district levels, spread over 15 states (see attached map)
- 33 state and union territory level action plans
- 10 action plans for eco-regions cutting across states (e.g. Western Ghats, East Coast, etc.; see attached map)
- 14 national thematic action plans (e.g. culture, agriculture, wildlife and ecosystems, health, technology, laws and policies, education and training, access/IPRs)
- a national action plan built on all of the above

EQUATIONS was designated the task of writing the sub-thematic paper on Biodiversity and Tourism in the backdrop of these processes.

## Background of the Paper

The Paper deals primarily with gross impacts of tourism activities in major ecosystems identified in India. It also tries to focus on principles in relation to tourism and biodiversity, and not detailed aspects like ecotourism initiatives in a particular. The section on ecotourism has been included

tourism; coastal impact of tourism and influencing consumer behaviour to promote sustainable tourism.

There was a focussed exchange on issues of key concern with participants seeking to identify their priorities for consideration and making a genuine effort to improve mutual understanding and cooperation. CSD-7 seeks to reflect issues on which participants showed general agreement, areas that would benefit from further dialogue and elaboration, specific initiatives announced or proposed by the participants.

In relation to coastal tourism, the need for decisions to be made at a local level through a multi-stakeholder process with regard to national and international frameworks was endorsed.

It was proposed that new tourism developments should be required to include all relevant sustainable development considerations, including design and implementation of a comprehensive waste management programme.

The United Nations **Commission on Sustainable Development** at the 7th session in New York on 19-30 April 1999 along with the UN General Assembly took a decision (Decision 7/3) on Tourism and sustainable development (b) To consult, as appropriate, with all major groups and local communities in the tourism development process, including policy formulation, planning, management and sharing of benefits, which could reflect the need to harmonize the relationship among the people, the community and the environment.

The United Nations **Commission on Sustainable Development** at the 7th session in New York on 19-30 April 1999 along with the UN General Assembly took a decision (Decision 7/3) on Tourism and sustainable development emphasises (d) To undertake capacity-building work with indigenous and local communities in order to facilitate their active participation, at all levels of the tourism development process, including transparent decision-making and sharing of benefits, and to create awareness of the social, economic and environmental costs and benefits that they are bearing.

In 5(a), it states "To promote sustainable tourism development in order to

increase the benefits from the tourism resources for the population in the host communities and maintain the cultural and environmental integrity of the host community; to encourage cooperation of major groups at all levels with a view to facilitating Local Agenda 21 initiatives and promoting linkages within the local economy in order that benefits may be more widely shared; to this end, greater efforts should be undertaken for the employment of the local workforce, and the use of local products and skills.” And in “10. The Commission invites the United Nations Secretariat and the World Tourism Organization, in consultation with major groups and other relevant international organizations, to jointly facilitate the establishment of an ad hoc informal open-ended working group on tourism to assess financial leakages and determine how to maximize benefits for indigenous and local communities; and to prepare a joint initiative to improve information availability and capacity-building for participation, and address other matters relevant to the implementation of the international work programme on sustainable tourism development.”

### **V.The UN-CSD's World Summit on Sustainable Development (WSSD) - Final Plan of Implementation**

The Plan of Implementation included in the WSSD Final Report, agreed by Heads of State at Johannesburg during September 2002, includes the following paragraph (No. 43) concerning Tourism:

Promote sustainable tourism development, including non-consumptive and eco-tourism, taking into account the spirit of the International Year of Ecotourism 2002, the United Nations Year for Cultural Heritage in 2002, the World Ecotourism Summit 2002 and its Quebec Declaration, and the Global Code of Ethics for Tourism as adopted by the World Tourism Organization in order to increase the benefits from tourism resources for the population in host communities while maintaining the cultural and environmental integrity of the host communities and enhancing the protection of ecologically sensitive areas and natural heritages. Promote sustainable tourism development and capacity building in order to contribute to the strengthening of rural and local communities. This would include actions at all levels to:

(a) Enhance international cooperation, foreign direct investment and

partnerships with both private and public sectors, at all levels;

- (b) Develop programmes, including education and training programmes, that encourage people to participate in eco-tourism, enable indigenous and local communities to develop and benefit from eco-tourism, and enhance stakeholder cooperation in tourism development and heritage preservation, in order to improve the protection of the environment, natural resources and cultural heritage;
  - (c) Provide technical assistance to developing countries and countries with economies in transition to support sustainable tourism business development and investment and tourism awareness programmes, to improve domestic tourism, and to stimulate entrepreneurial development.
  - (d) Assist host communities in managing visits to their tourism attractions for their maximum benefit, while ensuring the least negative impacts on and risks for their traditions, culture and environment, with the support of the World Tourism Organization and other relevant organizations;
  - (e) Promote the diversification of economic activities, including through the facilitation of access to markets and commercial information, and participation of emerging local enterprises, especially small and medium-sized enterprises.
44. (b) Promote the ongoing work under the Convention on Biological Diversity on the sustainable use on biological diversity, including on sustainable tourism, as a cross-cutting issue relevant to different ecosystems, sectors and thematic areas.

The sustainable tourism guidelines in the **World Summit on Sustainable Development** in its **Final Plan of Implementation** (point 43) states to promote sustainable tourism development and capacity building in order to contribute to the strengthening of rural and local communities.

In the **Final Plan of Implementation**, the sustainable tourism guidelines in **World Summit on Sustainable Development**, it outlines the need to (point 43) Promote sustainable tourism development, including non-consumptive and eco-tourism, taking into account the spirit of the International Year of Eco-tourism 2002, the United Nations Year for Cultural Heritage in 2002, the World Eco-tourism Summit 2002 and its Quebec Declaration, and the Global Code of Ethics for Tourism as adopted by the World Tourism Organization in order to increase the benefits from tourism

resources for the population in host communities while maintaining the cultural and environmental integrity of the host communities and enhancing the protection of ecologically sensitive areas and natural heritages.

**1. The UN's International Year of Ecotourism 2002 (IYE) - Declaration of the World Ecotourism Summit, Quebec**

'Ecotourism' activities have been expanding rapidly worldwide over the past two decades and further growth is expected in the future. There are increasing efforts to use ecotourism potential to support nature conservation and benefit local people, especially in developing countries. This rapid growth, however, has also given rise to concerns about negative (environmental, socio-cultural) impacts.

Recognising its growing global importance, the United Nations designated the year 2002 as the International Year of Ecotourism (IYE), and its Commission on Sustainable Development requested international agencies, governments and the private sector to undertake supportive activities. Along with the United Nations Environment Programme (UNEP) and the World Tourism Organization (WTO), who were officially designated as the coordinating organisations for IYE, and The International Ecotourism Society (TIES) undertook series of activities throughout the IYE.

## **Objectives of IYE**

UNEP and WTO aim at involving all the actors in the field of ecotourism during the International Year, with the following objectives in mind:

1. To open a wide review on the potential contribution of ecotourism to sustainable development and to conservation of biodiversity;
2. To exchange information on good practice and lessons learned in the sustainable planning, development, management and marketing of ecotourism;
3. To advance in the knowledge of the social, economic and environmental impacts of ecotourism;
4. To assess the effectiveness of regulatory mechanisms and voluntary schemes for monitoring and controlling the impacts of ecotourism;
5. To review experiences and lessons learned on the participation of local communities and Indigenous People in ecotourism projects and businesses.



The focal event of IYE was the World Ecotourism Summit (WES) held in Quebec, Canada, from 19 to 22 May 2002. It was co-hosted by WTO, the Canadian Tourism Commission and Quebec Tourism.

The Commission on Sustainable Development (CSD) and other venues were advised to implement the IYE. Within the UN system the CSD's Inter-agency Committee on Sustainable Development (IACSD) mandated the World Tourism Organisation (WTO/OMT) and the United Nations Environment Programme to prepare and co-ordinate supportive activities for and during the year.

The Quebec Declaration of the **International Year of Ecotourism 2002** stresses to achieve equitable social, economic and environmental benefits from ecotourism and other forms of tourism in natural areas, and to minimise or avoid potential negative impacts, participative planning mechanisms are needed that allow local and indigenous communities, in a transparent way, to define and regulate the use of their areas at the local level, including the right to opt out of tourism development.

The **International Year of Ecotourism 2002** *acknowledge* that tourism has significant and complex social, economic and environmental implications, which can bring both benefits and costs to the environment and local communities, and hence *emphasise* that ecotourism should continue to contribute to make the overall tourism industry more sustainable, by increasing economic and social benefits for host communities, actively contributing to the conservation of natural resources and the cultural integrity of host communities, and by increasing awareness of all travellers towards the conservation of natural and cultural heritage.

## **VII. The UN's Draft Declaration on Rights of Indigenous Peoples**

In 1982, a Working Group on Indigenous Populations (WGIP) was established. In 1993, the WGIP completed its work on a "Draft Declaration on the Rights of Indigenous Peoples" to be adopted by the UN General Assembly. The Draft Declaration was the result of the work of representatives of indigenous peoples and governments from all parts of the world.

The Draft Declaration deals with the rights of indigenous peoples in areas such as self-determination, culture and language, education, health,

housing, employment, land and resources, environment and development, intellectual and cultural property, indigenous law and treaties and agreements with governments. In 1995, the Commission on Human Rights established its own working group to examine the Draft Declaration.

This working group is likely to revise some provisions of the Draft Declaration. When the Commission on Human Rights completes its work, the Draft Declaration will be submitted to the UN General Assembly for final adoption. This "plain language" version of the Draft Declaration, funded by ATSIC, is intended to help indigenous communities and organisations understand the Declaration.

The Draft Declaration will be a powerful tool in changing attitudes, laws and policies. In Australia, there are signs that the Draft Declaration is already having an impact on debate about indigenous issues.

The **UN's Declaration on the Rights of Indigenous Peoples** in Part V sets out the rights of indigenous peoples to participate in decisions and developments which affect them. Indigenous peoples must participate in, and give their consent to, decisions and law making that affect them. They have the right to their own economic activities and to special measures to improve their economic and social conditions. Part VI sets out the rights of indigenous peoples to their land. They have the right to maintain their distinctive spiritual relationship with their land, waters and resources. They have the right to own and develop their land, waters and resources, and to the return of land taken without their consent. Their environment and their cultural and intellectual property must be protected. Indigenous peoples have the right to control development of their land.

#### **VIII. The WTO-OMT's Global Code of Ethics for Tourism (2000)**

The World Tourism Organisation had provided at its Istanbul session in 1997 the formation of a Special Committee for the preparation of the Global Code of Ethics for Tourism and the Committee met at Cracow, Poland on 7 October 1998, in conjunction with the Quality Support Committee meeting, in order to consider an outline of the Code.

The draft Global Code of Ethics for Tourism was prepared by the Secretary-General, with the assistance of the Legal Adviser to WTO and was studied by the WTO Business Council, the Regional Commissions and finally by the Executive Council at its sixtieth session, all of which were invited to formulate their observations.

The principle of a Global Code of Ethics for Tourism aroused great interest among the delegations that participated in the seventh session of the Commission on Sustainable Development (CSD) in New York in April 1999.

The aim of the Global Code of Ethics for Tourism is to establish a synthesis of the various documents, codes and declarations of the same kind or with comparable aspirations published over the years, to complement them with new considerations reflecting the development of our societies and thus to serve as a frame of reference for the stakeholders in world tourism.

The Members of the World Tourism Organisation (WTO-OMT) representatives of the world tourism industry, delegates of States, territories, enterprises, institutions and bodies that were gathered for the General Assembly at Santiago, Chile on the first day of October 1999, stated their wish to promote an equitable, responsible, and sustainable world tourism order, whose benefits were to be shared by all sectors of society in the context of an open and liberalised international economy, and adopted the principles of the Global Code of Ethics for Tourism.

The Preamble of the **Global Code of Ethics in Tourism** *considers* that, with an approach to sustainable tourism, all the stakeholders in tourism development - national, regional and local administrations, enterprises, business associations, workers in the sector, non-governmental organisations and bodies of all kinds belonging to the tourism industry, as well as host communities, the media and the tourists themselves, have different albeit interdependent responsibilities in the individual and societal development of tourism and that the formulation of their individual rights and duties will contribute to meeting this aim.

Article 3 dealing with Tourism as a factor of sustainable development states (in point 2) All forms of tourism development that are conducive to

saving rare and precious resources, in particular water and energy, as well as avoiding so far as possible waste production, should be given priority and encouraged by national, regional and local public authorities.

The **Global Code of Ethics in Tourism**, Article 5: Tourism, a beneficial activity for host countries and communities states that: 1. Local populations should be associated with tourism activities and share equitably in the economic, social and cultural benefits they generate, and particularly in the creation of direct and indirect jobs resulting from them.

## GATS and Tourism

While discussions on sustainable tourism development is taking place at one level there are widespread apprehensions on the happenings in conjunction with the global trade regimes. The General Agreements on Trade and Services (GATS) challenges the conservation and regulatory mechanisms envisaged for sustainable tourism development.

Under the GATS classification of 12 service sectors, Tourism comes under the 9th category of "Tourism and travel related services". This is further divided into

- Hotels and restaurants (including catering)
- Travel agencies and tour operators' services;
- Tourist guide services; and,
- Other [unspecified]

## Environment in the GATS

The environment is one of the basic resources of the tourism industry, as most forms of tourism are largely based on natural assets, such as beaches, the sea, mountains, forests, rivers or wildlife. Thus, environmental degradation can threaten the viability of the industry. Domestic governments under increasing pressure from critical groups may introduce protective measures in ecologically fragile areas. Pressures could be from Multinational Environmental Agreements and critical groupings within the country. Such measures could include limitations on the extent of Tourism activities in the area like a limit on the number of tourist excursions, limitations on the number of resorts, or even certain concessions given to particular firms if they commit to employing local people and contribute to conservation activities in the area. These kinds of limitations, even if they are applied so as not to discriminate between local

and foreign firms could be ruled as violating market access commitments [Article XVI] of the particular countries under the GATS. The market access commitments clearly state that if you have made unlimited commitments you cannot limit the number of service providers. The only option is to hope that the MNC's have the good sense to realise that this will be unpopular with environmentalists and back off unilaterally. Laws can't throw them out. Conservation also implies that local people participate, but imposing requirements on foreign firms to train and hire local people could fall foul of the national treatment rules [Article XVII] of the GATS.

Article 1[3] of the legal text of the GATS which talks of the scope of the GATS agreement mentions that in " fulfilling its obligation and commitments, each member **shall take such reasonable measures** as maybe available to it to ensure their observance by regional and local governments and authorities and non governmental bodies within its territory". This clearly implies that the GATS agreement has precedence if it comes into conflict with national, regional and local priorities. It clearly applies to all levels of government, central, regional or local governments and authorities. This also makes it clear that the government would be compelled to change the national laws in accordance to the commitments made.

Potential conflicts:

- No restrictions on tourism development through national environmental laws
- Free trade principles: conflicts with CBD principles sustainability, local involvement, benefit sharing etc.

## **2.10 Panchayats and Tourism Development**

### **The role of Panchayati Raj Institutions**

While seeking means to sustainable tourism development through conservation of biodiversity it could be observed that majority of tourism requirements rely on powers vested with the PRIs. The Panchayats are empowered to safeguard and preserve the traditions, customs and cultural identity of the people, community resources and settling local disputes through customary methods. The Gram Sabha under the extended act is to approve plans, programmes and projects meant for social and economic development of the Village Panchayat prior to its implementation by Panchayats at the village level.

## Tourism and Rights of Panchayats

An extremely demanding industry in terms of resources, tourism operates in its own created ambience mostly unrecognising its responsibilities to the surrounds to which it belongs. It is with the Panchayats that almost all of the needs and wants of tourism is held. Below are listed some of the powers with the Panchayat out of the 29 decision making powers bestowed with it that has relevance to tourism development.

### Bring in systems for conservation and tourism development

It has proven that no single agency could effectively enforce all aspects of development. This is applicable to tourism development also. The primary agency to democratise and convert tourism planning and implementation is the central and state tourism ministry and departments. The Department of Tourism needs to recognise right of the Panchayats and the need to consult them in tourism development. The primary task involved in making this a reality is through recognition for consultation with the PRIs. This could be done through the tourism policy documents. The policy document should recognise actionable strategies to involve local bodies/PRIs in the tourism development process. It should recognise:

- the inherent potential and role of Panchayats in planning, regulating, implementing and monitoring of local tourism development projects, Benefit sharing; also seek its participation in terms of issuing and non-issuing licences to tourism projects.
- involve PRIs in monitoring tourism sub-sectors and ensure the enforcement of code of ethics.
- include PRIs in Tourism Development Authority to be constituted from time to time for regulating tourism development and any other authority to be constituted for any other purposes notified in any policy or law.
- allocate 40 per cent of funds stipulated for implementation of any projects from plan funds.
- enable PRIs by conducting interactive programmes to transfer skills, knowledge and attitudes to involve in social/environmental audit of tourism projects.
- ensure the right to access to common property resources of local community through local bodies, and
- empower PRIs to impose punitive measures on exploitation of resources by tourism industry

## **SELF GOVERNING MANAGEMENT SYSTEMS (SGMS®) a dynamic process**

The need for participation of local communities and people in conservation is accepted universally. Moderate changes in previous approaches towards communities is felt in relocation programmes, providing employment opportunities and seeking their knowledge for perambulation etc. it was linkages between rural poverty alleviation and conservation that paved way for the eco-development programmes. This was also the recognition by international forums like the UNEP that participation of local people cannot be avoided in attaining conservation goals.

### **A possible functional framework for participatory tourism management**

On the ground level these need to be visualised on different levels. Systems need to be created to translate the role of Panchayats along with other departments such as tourism, forest when it is in PAs, forest regions and coastal zone management authorities in the case of coastal regions. In the current context the aspirations and needs of private tourism service providers also need to be taken in to account. An effective tourism development could be experimented through the creation of systems, which would ensure creation of a space by which;

- all above stakeholders share the concerns of conservation
- transparent information sharing on the aspirations of tourism service providers, and
- scrutinising the aspirations of all stakeholders in the interest of conservation.
- Eco-friendly, biodiversity friendly tourism practices are encouraged and implemented.

### **SGMS as envisioned**

SGMS® shall be a functional model incorporating following principles: Stakeholder participation, functional transparency, checks and balances in

action, regular monitoring and evaluation, benefit sharing, overall development of the region and local community.

### **SGMS needs to have a three-functional system**

#### **GMS needs to have a three-functional system**

Implementing Group

Scrutinising Group

Recommendatory Group

#### **The Implementing Group**

Representatives of the local Panchayat and the Forest Department, in the capacities of local community institution and guardians of biodiversity and natural resources respectively, would constitute this body.


The rights and responsibilities are based on impacts of activities because they cut across spatial jurisdiction. In cases of infringement in each others' areas, the Scrutinising Group would settle the conflict. The Implementing Group would execute the recommendations proposed by the Recommendatory Group, only after the approval of the Scrutinising Group.

#### **The Scrutinising Group**

Would comprise of neutral individuals, consisting of a number of specialised individuals experts in conservation, planning and socio-economic matters. This Group would scrutinise the recommendations and also the merits and demerits in their implementation. This Group is intended to play a balancing role between the aspirations of diverse groups of stakeholders keeping the goals of conservation of biodiversity and natural resources, and welfare of local communities as benchmarks.

1. Environmental Scientists
2. Economists (macro/micro)
3. Sociologists



- 
4. Legal experts
  5. Architect and urban planner
  6. Specialists in Gender Issues
  7. Media

The Scrutinizing Group will be both, (i) the pre and (ii) post scrutinising agency of the recommendations and the progress of their implementation. They will also report back to the Recommendatory and Implementing Groups.

### **The Recommendatory Group:**

Would comprise of secondary stakeholders; various departments, tourism facility providers, local administrative bodies, conservation groups, and peoples groups. This Group will recommend the developmental and conservational needs of the area.

There are various players involved and are identified according to their position within the three-tier system.

1. Panchayat Members
2. Tourism Service Providers - hotels, resorts, tour operators, travel agents
3. Commercial establishments
4. Public Works Department
5. Electricity Board
6. Departments of Communication telephone, post and telegraph.
7. State Tourism Development Corporations.
8. Adivasi, community and cultural organizations, nature groups, NGOs, Mahila Samajams - all from within the Panchayat

The Recommendatory Group will provide suggestions and/or recommendations on the required development and required mechanisms for conservation, and optimum use of the natural resources.

There will be *ad hoc* terms for members who will bring in fresh ideas for fresh inputs, which will allow the SGMS® to rejuvenate itself. The membership of the SGMS will have a gender balance.

## 2.11 Challenges Ahead

Biodiversity and current practices of tourism do not go hand in hand. It is too taxing for the biodiversity on which tourism banks in our country. Tourism had grown and continues to grow without taking heed of the warnings from all quarters that are anxious about the depleting biodiversity.

Authorities and planners who see the economic potential of tourism tragically had failed to bring in necessary mechanisms to arrest the detrimental factors through policy and guidelines. The tendency is to succumb to the pressures, tourism earnings overtaking conservation and precautionary measures.

PAs in the country being centres of preserved flora and fauna are targeted for wilderness tourism, which is now dubbed as ecotourism. Among PAs, tourism is permissible, along with study and research, in both wildlife sanctuaries and National parks, as per the Wildlife (Protection) Act 1972. The Chief Wildlife Warden is the authority under whose permission tourism could be allowed. Apart from this mention of the word 'tourism' this does not specify or elaborate anything further. This does not specify what kind of tourism and what related activities could follow and could be allowed. The uniqueness of Biospheres is not taken in to account by this existing legal and policy domain that is applicable to PAs. Biospheres are extremely complex and sensitive than the PAs.

The greatest challenge in biodiversity conservation and tourism development would be to ecologically sensitive regions that does not have any special protective mechanisms or measures. Like in the case of backwaters, marshy and wetland areas, extensive mangrove forest regions etc.

From the side of the tourism industry it is objectionable that it does not consider the critique to unsustainable tourism development. Instead of adhering to the laws of the country the tendency is to bypass and circumvent. It is yet to be witnessed when the industry would act as a contributor to the conservation of natural resources and take people into its fold for correct tourism practices.

#### **a. The need for Reorientation in management for biodiversity conservation and sustainable tourism**

In the light of growth in tourism development, lack of adequate legal mechanisms and global pressures there is a need to seek measures, which would balance tourism development and biodiversity conservation. There is a need to bring in larger civil society participation and local governance systems in tourism development. The need for participation of local communities and people in biodiversity conservation today is accepted universally. In the Indian context there are participatory systems that could be employed for this (Refer SGMS).

#### **b. Need for reconsidering tourism in PAs as stipulated by the Wild Life (Protection) Act 1972**

The word tourism occurs just once in the Wild Life (Protection) Act 1972 in Section 28 and the permission to tourist entry rests totally with the Chief Wildlife Warden of the State. Tourism has come a long way since the time these laws were framed. The present forms of tourism practices are clearly detrimental to the well being of biodiversity in the PAs, as compared to what was practiced in the 70s. Therefore, there is an urgent need to make amendments in the clause or at least bring out elaborate set of guidelines that define tourism and the way it should behave in and around PAs.

- Separate tourism from research, scientific study, and wildlife photography.
- The Chief Wildlife Warden alone should not have the final say in permitting tourism, but the decision should be brought into the participatory management system (SGMS) with PRIs / Indigenous Peoples organisations.

- Annual number of tourists to be regulated.
- Seasonal / daily closure of PAs for tourism activities to be mandatory.
- No commercial establishments to be allowed inside (hotels, curio- shops, shacks, etc.)
- No private tourist vehicles to be allowed inside.

### **c. Need for site-specific tourism guidelines**

The state governments should bring out guidelines for tourism that are site-specific. This is because the form and quantum of tourism that occurs in different regions is distinct and needs to be addressed on the basis of these distinctions. Especially tourism in PAs, which requires identification of the ecosystems where it is occurring, the specific conservational needs of the ecosystems, the indigenous and local communities involved the PAs and their specific needs, and finally the kind of development that is happening or being proposed to happen in and around the PAs.

### **d. Tourism and GATS**

The commitment on the GATS challenges the concept of sustainable development and more importantly the ability of framing tourism policies that reflect local specificities. The present method of the Commerce ministry deciding Indian commitments in the GATS without active consultations with the MoEF needs to change if other commitments in fora like the CBD have to be honoured.



**THE SOUTH INDIAN ADIVASI EXPERIENCE**

**In the Nagarhole National Park and the Muthanga Wild Life Sanctuary.**

**Speech at the 5<sup>th</sup> World Parks Congress, Durban, September 2003  
by C K Janu, Adivasi Gothra Mahasabha, Kerala State, South India**

The theme of the Vth World Parks Congress "Benefits Beyond Boundaries" suggests that the Congress will focus on addressing people's needs and providing a stream of economic, political and environmental benefits to societies worldwide.

We, the adivasis, the original inhabitants of most of the areas that now come under the Parks and the Protected Areas, appreciate the concern shown by the Congress towards the 'needs of the people'. At the same time, however, we have our doubts and apprehensions.

First of all, who are the people whose needs are to be addressed? Does it include us, the adivasis, the indigenous people? Or, in the name of extending benefits to the 'people', will the big multinational or national corporates and donor agencies such as the World Bank be allowed more footholds in the forests? The doubt is valid because hitherto in the management of Protected Areas and Parks and for that matter any forest in my country, Governments had only sought to wipe us out completely or push us out of our habitats.

Despite several international conventions and even the Indian Forest Policy of 1988 recognizing the role of the indigenous people in conservation and sustenance of forests, the governments have been practising a policy of "Nature without People." Eviction and displacement had been the reality faced by the forest people of India all through the colonial history. Even after the country gaining Independence, the threat of eviction loomed large following the promulgation of the Wild Life Protection Act, 1972 and Forest Conservation Act, 1980. It has become all-pervasive and palpable now following an order of the Ministry of Environment and Forests in May 2002. As many as 10 million indigenous people in India now face the threat of eviction. In the state of Assam, more than 100,000 people have already been evicted in just three months between April 2002 and July 2002. This has been the case in the Nagarhole National Park in the State of

Karnataka and again, more recently, in the Muthanga Wild Life Sanctuary in my own state of Kerala. My presentation here will dwell mostly on my experience of the indigenous peoples' struggles in the Protected Areas of Nagarhole and Muthanga in South India.

Throughout history, the indigenous people had fought for their rights. This is to say that we are demanding much more than 'benefits.' We are demanding RIGHTS over forests.

And we are also demanding that there is an urgent need to redraw the 'boundaries', if at all drawing boundaries protect nature.

The talk about extending 'benefits' is in fact a cover-up for several DENIALS, several costs borne by the people. Firstly the indigenous people have been robbed of their traditional/customary rights to land and territories. Secondly, they have been robbed of their historical role in conservation of nature. These two fundamental denials have by now turned the indigenous peoples in most part of India into victims rather than beneficiaries of the Protected Area management system and, the forest management system, in general.

### **The Struggle in the Nagar Hole (Rajiv Gandhi) National Park**

In the case of the Nagarhole National Park in the State of Karnataka, there was indeed much talk about the 'benefits'. And the promises were made out by none other than the World Bank.

The Nagar Hole national park is now a part of the Nilgiris Biosphere Reserve -- one of the 440 biosphere reserves in 97 countries where the UNESCO is implementing the Man and Biosphere program. Nilgiris was the first internationally designated biosphere reserve in India. Several ethnic groups had inhabited the area from time immemorial. They included the Cholanaikans, the only surviving hunter-gatherers of the Indian subcontinent, concentrated in the Nilambur area. In 2000 there were 11,60,200 permanent inhabitants within the biosphere reserve subsisting on the use of natural resources such as medicinal plants, agriculture and agri-horticulture.

An area of 57,155 ha in Nagar Hole had been constituted as a sanctuary in

1955. The Government of Karnataka declared Nagar Hole (which meant, Snake River, in the local language) as a game sanctuary in 1972. Subsequently the area under the sanctuary was further increased to 64,339 ha. The Nagar Hole National Park was constituted in 1983.

Over 9,000 indigenous people were residing in 58 hamlets inside what the government called the National Park. There were Jenu Kurubas, the honey-gatherers; the Hakki Pikki (bird-trappers), the Betta Kurubas who specialised in making bamboo baskets and utensils; the Yeravas who survived on fishing and the Soligas who had diversified into agriculture and herding goats. Apart from those who lived within the forests, there were more than 23,000 adivasis residing within 5 km distance, all depending on the Nagar Hole forests for their survival.

Under the UN scheme for the Biosphere Reserve, the forests, the animals, the birds, the agriculture and the human being ought to have been protected for their uniqueness. But the government agencies continued to violate this norm for lucrative business interests. The natural forests were extensively logged and substituted with plantations of teak, eucalyptus and rosewood. Nearly 15 per cent of the area within the National Park is now under plantations.

**Evictions:** Governments have been systematically pushing out the adivasis to the forest fringes. In 1970s, a total of 1220 families consisting of more than 6000 people were pushed out to locations 1-12 km from their original habitats. In more than 40 hamlets within the Park, adivasi lands were taken over for teak and eucalyptus plantations. People in 20 hamlets were ousted to make way for the Kabini River valley project and the Taraka dam. Those who were evicted and 'rehabilitated' did not get anything other than makeshift tents or huts to live in. They became 'coolies', menial servants, or virtual bonded labourers in estates.

Severe restrictions were placed on indigenous people who continued to live within the forests. They were seen and labelled as encroachers. Trenches were dug in their fields and paths. No cultivation of any kind was allowed. This was so, despite the fact that the adivasi method of cultivation did not clear any trees, now ploughing or sowing was done, no chemical fertilisers or pesticides used. Hunting, even ritual hunting, was banned. No livestock or dogs were allowed. No wells could be dug. The houses could

not be renovated. A total ban on collection of minor forest produce such as tubers, mushrooms and wild vegetables was imposed. Adivasis were not allowed entry to the sacred sites and burial grounds within the forests. The government even sought to put a ban on traditional music and dance forms. The adivasis were constantly harassed. Several adivasi women were molested. Many were put behind bars on fake charges of forest offences.

The indigenous people had to suffer all this while several non-adivasi encroachers were allowed to remain within the forests and cultivate nearly 660 ha of forestlands on payment of yearly taxes. Many among them managed to get title deeds for nearly 100 ha of forest land.

### **Eco-tourism and the World Bank's Eco-development project**

The worst of such preference shown to the non-adivasis and the rich pleasure-seeking people at the cost of the indigenous people came about when the Government in 1994 entered into a lease agreement with Taj Group of hotels and a little later when the World Bank supported eco-development project was proposed to be started in Nagarhole. The lease agreement with the Taj group, one of the richest business groups in India, was to lease 10 ha of forestland at Murkal in Nagarhole to build and operate a three-star tourist resort. The agreement was in total violation of the Forest Conservation Act and the Wild Life Protection Act. The agreement was also a contradiction of all tall claims of protecting the ecological balance and the biodiversity in the National Park.

Similarly, the eco-development project negated the World Bank's own norms of "not carrying out any involuntary resettlement of people," not eroding the "customary tenure rights over land and other assets of tribals living in the Protected Areas" ensuring "prior informed consent and participation" and "compensating the people relocated". Nevertheless, with the Rs. 295-crore (1 crore is 10 million) eco-development project promising a huge bounty, the Government intensified the pressure to evict the remaining Indigenous People from the Nagarhole forests. The project intended to wean away the adivasis from the forests by nominally "training" them in subsistence occupations such as pig rearing. This enterprise will be shown to be viable by pumping in massive subsidies. With this the indigenous people could be resettled outside the forests. The World Bank would have its hands clean. The plan of the Taj group was also interesting.



Once the IPs are thrown out, the forests would be opened up to visitors interested in biodiversity research a euphemism for bio-prospecting.

But organised resistance from the adivasis with the support gained from various quarters made these plans difficult. When the adivasis blocked the construction of the “jungle Lodge”, the authorities arrested them, men women and children. The adivasis launched an “enter the forest campaign” on the Independence Day of 1995 and declared Self-Rule as their goal. After several waves of protests, the number of arrested people rose to 200. The campaign continued through the years. The adivasis called for a general strike in Nagarhole on December 29, 1996 and it turned out to be a total success. All the six roads leading to the Park was blocked. Subsequently, a writ petition was moved in the High Court of Karnataka by Nagarhole Budhakkattu Hakku Sthapana Samithi (Nagarhole Adivasi Rights Restoration Forum) and others. On 20 January 1997, the High Court ruled that the assignment of forestland to the Taj Group was in gross violation of several national laws for conservation of nature and wild life.

Subsequently, the World Bank officials were stopped during their visit to Nagarhole and told in no uncertain terms that with the indigenous people declaring Self-Rule in the area, the imposed eco-development project would be doomed. Soon the World Bank withdrew from implementing the Eco-development Project in Nagarhole.

An important fall-out of the Nagarhole struggle was that the indigenous people took over the leadership. The adivasis donned the mantle with confidence and élan. And more importantly, they evolved their own plan for the regeneration of the forests, based on the deep wealth of indigenous knowledge of the forests.

### **The struggle for Self-Rule in Muthanga Wild Life Sanctuary, Kerala**

The indigenous communities pre-existed the State. The rights to manage their own affairs, to appropriate forest resources and to redress disputes had all along been the customary rights of the indigenous people in India. In the past, kings did not dare to interfere with the adivasi communities, nor could the British colonialists conquer them fully. However, these rights suffered severe erosion when the colonial rulers went on turning the natural forests into “reserved forests”. Post-Independence Governments in

several States including Karnataka and Kerala have only aped this practice, despite the Indian Constitution under Article 244 providing for bringing indigenous peoples' villages under Schedule V areas ruled by Self-Governing institutions. Hence, to this day, Self-Rule has remained the abiding goal and demand of indigenous people all over the country. As in Nagarhole in the 90s, the struggle in the Muthanga Wild Life Sanctuary in Waynad last year was motivated by the goal of Self-Rule.

Officially, the Muthanga forest forms a part of the Nilgiri Biosphere Reserve and is a designated Elephant Reserve. Until two decades ago, Muthanga was a forestland with rich biodiversity. More than 3,000 diverse species had made this area qualify for protection. However, disregarding the importance of the biosphere, 77 sq. km of the Muthanga Range was opened up for commercial plantations for feeding a single pulp factory of the Birlas, an Indian multinational business group. Soon there would be no natural forests left in nearly 40 per cent of the forest range. More than 3,500 ha of forestland became completely barren. The water stream that separated the Bandipur Reserve of Karnataka and the Mudumalai Reserve of Tamil Nadu from the Muthanga Range in Kerala locally called Mamana halla -- completely dried up as a result of the spread of eucalyptus plantations. The river is now nothing but a stretch of white sand. The marks of elephants trying to dig holes in the sand in search of water are evident in the dried up riverbed. Elephants frantically searching for water and crossing the Muthanga Range to reach the Noolpuzha River located east of Muthanga is what makes the Wild Life Sanctuary qualify as an Elephant Reserve and an elephant corridor. The plight of the elephants in the Wayanad Wild Life Sanctuary presents the other side of the saga of the disrupted lives in indigenous people in Muthanga as well as the whole State.

Following a series of starvation deaths, the adivasis in Kerala had launched a struggle in August 2001 by setting up 'Refugee Camps' in front of the State Chief Minister's residence. The struggle continued for 48 days forcing the Govt. of Kerala to promise disbursement of land and other rehabilitation measures for the adivasi people in the state. However, as the government did not keep its word even after a year, we were again forced to take to the path of struggle. And, as in Nagarhole, the indigenous people of Kerala decided to "Enter the Forests," our homeland, under the banner of the Adivasi Gothra Maha Sabha (AGMS). The Muthanga forest where we put

up huts was the homeland of different adivasi communities in Wayanad such as the Paniyas, the Vetta Kurumas, the Kattunaikkas, the Adiyas and the Mullukuruma etc. Our sacred groves and burial grounds still exist in Muthanga. Several adivasi families had been forcibly evicted from Muthanga during 1970s and '80s, first while declaring the area as a sanctuary and then for establishing the eucalyptus plantations. Those who were evicted were compelled to live a wretched life in several tribal 'colonies' where starvation deaths were rampant.

The adivasi families who entered the forestland had only sought to assert the traditional right over the Muthanga forests. They erected huts in the barren area and reorganised the Adivasi Oorukootams (hamlet-level self-government institution). Along with subsistence agriculture, we re-started our gothra pooja (collective ritual worship). A minimum programme for Self-Rule in accordance with the spirit of the Panchayats (Extension to the Scheduled Areas) Act, 1996 was drawn up. The regeneration of the ecosystem, primarily the water sources and the vegetation was an important objective in this. The Adivasi Oorukootams reorganised in the Muthanga were determined to achieve this through community management and the application of traditional knowledge. We were convinced that there was no need for huge donor agency funds for achieving this objective.

At no point during the struggle in Muthanga, did the Govt. authorities conduct a discussion with the protestors. The authorities never issued any notice in accordance with eviction procedures. The police or the District Collector did not gather any information from us. Throughout the AGMS occupation of Muthanga, the Forest Department, however, resorted to unlawful and covert means to evict the adivasis. Twice they sent domesticated elephants fed with alcohol to attack the adivasi huts. On two occasions, some unknown persons, obviously hired by the Forest Department, set fire to the forests and the grassland.

All the authorities, and a few fake conservationists with vested interests, concealed the truth regarding the actual status of the Muthanga forest and the indigenous people who had a right over it. Instead, they churned out false reports claiming that Muthanga was the breeding ground of elephants and a core area of the sanctuary. Most of the biodiversity of Muthanga had been sucked dry by a parallel economy that thrived on illegal ivory and sandalwood trade that went on unabated with the connivance of the Forest

Department. Despite the fact that the adivasis did not do anything that could be construed as criminal or destructive of the ecosystem, the State Chief Minister Antony and the Forest Minister Sudhakaran propagated that the occupation in Muthanga was an "armed struggle waged against the State".

With the backing of this false, malicious propaganda, the state authorities first resorted to setting fire to the forests and then, two days later, opened bullet fire on over a thousand adivasi men, women and children who had 'occupied' the Muthanga forest. The assault on innocent adivasis was completed by the armed forces, by marching on to the hamlets and booking hundreds of innocent adivasis and throwing them into jails several weeks. This has been one of the most criminal incidents in the history of Kerala. "Moments in the life of a society when something happens to put its moral fibre on public display," as writer Arundhati Roy put it. "The Muthanga atrocity will go down in Kerala's history as a government's attempt to decimate an extraordinary and historical struggle for justice by the poorest, most oppressed community in Kerala"

Despite the harrowing experiences that followed the brutal eviction in February last year in the Muthanga forest, the decision of the indigenous people is to go back to Muthanga and assert our rights. There is no other way but to return to the locale and the roots of the primordial conflict with the rulers of the land who had usurped our forests and turned us into the wretched of the earth, bereft of rights over resources and rights over even our own life.

In such a context, the challenge for the Vth World Parks Congress would be to explicitly recognise indigenous peoples' rights to forestland and our role in conservation of nature as not just that of equal partners but as the key players.



**DRAFT NATIONAL POLICY ON TRIBALS**

The following document has been drafted by the Ministry of Tribal Affairs as an attempt to put in place a comprehensive set of principles, objectives and goals in the matter of Tribal Affairs in the Government of India and to give a coordinated direction to the efforts of tribal development.

Comments and suggestions which will enable the Ministry to improve upon the draft policy and bring out the best are welcome.

You can send your comments to :

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**Draft  
National Policy On Tribals**

For the first time after the country became Independent, the Government of India is proposing the formulation of a National Policy on Scheduled Tribes.

The policy seeks to bring Scheduled Tribes into the mainstream of society through a multi-pronged approach for their all-round development without disturbing their distinct culture.

There are 67.8 million Scheduled Tribe people, constituting 8.08 per cent of India's population. There are 698 Scheduled Tribes spread all over the country barring States and Union Territories like Chandigarh, Delhi, Haryana, Pondicherry and Punjab. Orissa has the largest number 68--of Scheduled Tribes.

Scheduled Tribes are those which are notified as such by the President of India under Article 342 of the Constitution. The first notification was issued in 1950. The President considers characteristics like the tribes' primitive traits, distinctive culture, shyness with the public at large, geographical isolation and social and economic backwardness before notifying them as

a Scheduled Tribe. Seventy-five of the 698 Scheduled Tribes are identified as Primitive Tribal Groups considering they are more backward than Scheduled Tribes. They continue to live in a pre-agricultural stage of economy and have very low literacy rates. Their populations are stagnant or even declining.

The Constitution through several Articles has provided for the socio-economic development and empowerment of Scheduled Tribes. (You may list the provisions here, if necessary). But there has been no national policy, which could have helped translate the constitutional provisions into a reality. Five principles spelt out in 1952, known as Nehruvian Panchasheel, have been guiding the administration of tribal affairs. They are:

- ♦ *Tribals should be allowed to develop according to their own genius*
- ♦ *Tribals' rights in land and forest should be respected*
- ♦ *Tribal teams should be trained to undertake administration and development without too many outsiders being inducted*
- ♦ *Tribal development should be undertaken without disturbing tribal social and cultural institutions*
- ♦ *The index of tribal development should be the quality of their life and not the money spent*

Realising that the Nehruvian Panchasheel was long on generalities and short on specifics, the Government of India formed a Ministry of Tribal Affairs for the first time in October 1999 to accelerate tribal development. The Ministry of Tribal Affairs is now coming out with the draft National Policy on Tribals. Based on the feedback from tribal leaders, the concerned States, individuals, organisations in the public and the private sectors, and NGOs, the Ministry will finalise the policy.

The National Policy recognises that a majority of Scheduled Tribes continue to live below the poverty line, have poor literacy rates, suffer from malnutrition and disease and are vulnerable to displacement. It also acknowledges that Scheduled Tribes in general are repositories of indigenous knowledge and wisdom in certain aspects.

The National Policy aims at addressing each of these problems in a concrete way. It also lists out measures to be taken to preserve and promote tribals' cultural heritage.

### **Formal education:**

Formal education is the key to all-round human development. Despite several campaigns to promote formal education ever since Independence, the literacy rate among Scheduled Tribes is only 29.60 per cent compared to 52.21 per cent for the country as a whole (1991 Census). The female literacy rate is only 18.19 per cent compared to the national female literacy rate of 39.29 per cent. Alienation from the society, lack of adequate infrastructure like schools, hostels and teachers, abject poverty and apathy towards irrelevant curriculum have stood in the way of tribals getting formal education.

- To achieve the objective of reaching the benefit of education to tribals, the National Policy will ensure that:
- Tribals are included in the national programme of Sarva Shiksha Abhiyan run by the Ministry of Human Resource Development.
- Schools and hostels are opened in areas where no such facilities exist.
- At least one model residential school is located in each tribal concentration area
- Education is linked with provision of supplementary nutrition.
- Special incentives like financial assistance, pocket allowance, free distribution of textbooks and school uniforms are provided
- Teaching is imparted in tribals' mother tongue at least up to the primary level. Educated tribal youth are given employment as teachers, wherever possible. (This will obviate the need to employ teachers belonging to far-off places who find commuting is as difficult as staying in a village with no basic amenities.
- Pedagogy is made relevant so that tribals do not find it as alien.
- Curriculum and cocurriculum include aspects of meta skill upgradation of tribal children.

- Curricula for meta skill upgradation are to include aspects of tribal games and sports, archery, identification of plants of medicinal value, crafts art and culture, folk dance and folk songs, folk paintings etc.
- Emphasis is laid on vocational/professional education. Polytechnics are set up for studies in subjects like forestry, horticulture, dairying, veterinary sciences, polytechnics.

### **Traditional wisdom**

Dwelling amidst hills, forests, coastal areas, deserts, tribals over the centuries have gained precious and vast experience in combating environmental hardships and leading sustainable livelihoods. Their wisdom is reflected in their water harvesting techniques, indigenously developed irrigation channels, construction of cane bridges in hills, adaptation to desert life, utilisation of forest species like herbs, shrubs for medicinal purposes, meteorological assessment etc. Such invaluable knowledge of theirs needs to be properly documented and preserved lest it should get lost in the wake of modernisation and passage of time.

### **Health:**

Although tribal people live usually close to nature, a majority of them need health care on account of malnutrition, lack of safe drinking water, poor hygiene and environmental sanitation and above all poverty. Lack of awareness and apathy to utilise the available health services also affect their health status. In wake of the opening of tribal areas with highways industrialization, and communication facilities, diseases have spread to tribal areas. Endemics like malaria, deficiency diseases, venereal diseases including AIDS are not uncommon among tribal populations. However, lack of safe drinking water and malnutrition are well-recognised major health hazards. Tribals suffer from a deficiency of calcium, vitamin A, vitamin C, riboflavin and animal protein in their diets. Malnutrition and undernutrition are common among Primitive Tribal Groups who largely depend upon food they either gather or raise by using simple methods. The poor nutritional status of tribal women directly influences their reproductive performance and their infants' survival, growth and development.



Tribal people, who are self-reliant and self-sufficient, have over the centuries developed their own medicine system based on herbs and other items collected from the nature and processed locally. They have also their own system of diagnosis and cure of diseases. They believe in taboos, spiritual powers and faith healing. There are wide variations among tribals in their health status and willingness to access and utilise health services, depending on their culture, level of contact with other cultures and degree of adaptability.

Against this background, the National Policy seeks to promote the modern health care system and also a synthesis of the Indian systems of medicine like ayurveda and siddha with the tribal system.

### **The National Policy seeks to:**

1. Strengthen the allopathy system of medicine in tribal areas with the extension of the three-tier system of village health workers, auxiliary nurse mid-wife and primary health centres.
2. Expand the number of hospitals in tune with tribal population
3. Validate identified tribal remedies (folk claims) used in different tribal areas
4. Encourage, document and patent tribals' traditional medicines
5. Promote cultivation of medicinal plants related value addition strategies through imparting training to youth
6. Encourage qualified doctors from tribal communities to serve tribal areas
7. Promote the formation of a strong force of tribal village health guides through regular training-cum-orientation courses
8. Formulate area-specific strategies to improve access to and utilisation of health services
9. Strengthen research into diseases affecting tribals and initiate action programmes
10. Eradicate endemic diseases on a war footing

## **Displacement and Resettlement:**

Displacement of people from traditional habitations causes much trauma to the affected people. Compulsory acquisition of land for construction of dams and roads, quarrying and mining operations, location of industries and reservation of forests for National Parks and environmental reasons forces tribal people to leave their traditional abodes and land their chief means of livelihood.

Nearly 85.39 lakh tribals had been displaced until 1990 on account of some mega project or the other, reservation of forests as National Parks etc. Tribals constitute at least 55.16 percent of the total displaced people in the country. Cash payment does not really compensate the tribals for the difficulties they experience in their living style and ethos.

Displacement of tribals from their land amounts to violation of the Fifth Schedule of the Constitution as it deprives them of control and ownership of natural resources and land essential for their way of life.

The National Policy for Tribals, therefore, stipulates that displacement of tribal people is kept to the minimum and undertaken only after possibilities of non-displacement and least displacement have been exhausted. When it becomes absolutely necessary to displace Scheduled Tribe people in the larger interest, the displaced should be provided a better standard of living.

The National Policy, therefore, mandates that the following guidelines be followed when tribals are resettled:

- When displacement becomes inevitable, each scheduled tribe family having land in the earlier settlement shall be given land against land. A minimum of two hectares of cultivable land is considered necessary and viable for a family (comprising man, his wife and unmarried children).
- Tribal families having fishing rights in their original habitat shall be granted fishing rights in the new reservoir or at any other alternative place
- Reservation benefits enjoyed at the original settlement shall be continued at the the resettlement area.

- Additional financial assistance equivalent to nearly one and a half year's minimum agricultural wages for loss of customary rights and usufructory rights of forest produce shall be given.
- Tribals are to be resettled close to their natural habitat by treating all the people so displaced as one group to let them retain their ethnic, linguistic and socio-cultural identity and the network of kinship and mutual obligations
- Free land is to be provided for social and religious congregations.
- If resettlement is possible only away from the district/taluka, then substantively higher benefits in monetary terms shall be given. When tribal families are resettled en masse, all basic minimum amenities shall be provided at the new sites. They include roads and passages, electricity, drainage and sanitation, safe drinking water, educational and health care facilities, fair price shops, a community hall and a panchayat office.

## Forest villages

Tribal's age-old symbiotic relationship with forests is well known. Recognising this fact, even the National Forest Policy committed itself to the close association of tribals with the protection, preservation and development of forests and envisaged their customary rights in forests. It is, however, a matter of serious concern that about 5000 forest villages do not have minimum basic living conditions and face a constant threat of eviction.

The National Policy suggests that any forceful displacement should be avoided. Human beings move on their own to places with better opportunities. The forest villages may be converted into revenue villages or forest villages may be developed on par with revenue villages to enable the forest villagers enjoy at least the minimum amenities and services that are available in revenue villages.

### **The National Policy, therefore, mandates that**

- Educational and medical facilities, electricity and communication, approach roads and such other basic amenities be provided to

forest villagers.

- *Public Distribution System (PDS) and Grain Banks be established to prevent food problems.*
- *Advanced agriculture and animal husbandry technologies be introduced so that forest villagers raise their production, incomes and economic standards.*
- *Bank and other institutional loans be made available for entrepreneurs with viable projects of income generation*
- *Tribals be given opportunities to partake in joint forest management and encouraged to form cooperatives and corporations for major forest related operations*
- *Integrated area development programmes be taken up in and around forest areas*
- *Tribals' rights in protection, regeneration and collection of minor forest produce (MFP) be recognised and institutional arrangements made for marketing such produce*
- *Efforts be made to eliminate exploitation by middlemen in cooperatives like Tribal Development Cooperative Corporations (TDCCs), Large Sized Multi Purpose Societies (LAMPS) and Forest Development Cooperatives by introducing minimum support prices for non agricultural produce on the lines of minimum support prices for agricultural produce.*

### **Shifting Cultivation:**

In the evolution of human civilisation, shifting cultivation preceded agriculture as we know it today. In shifting cultivation, tribals do not use any mechanized tools or undertake even ploughing. A digging stick and a sickle are the usual tools. It is widely practised in whole of North- Eastern region besides the States of Andhra Pradesh, Orissa, Tamil Nadu and to some extent in Chhattisgarh and Jharkhand. Though the practice is hazardous to environment, it forms basis of life for tribals. Traditionally,

shifting cultivation has been in vogue in hilly terrains where tribals have had the right on land either individually or on community basis. Because of poor yields, crops do not meet their food requirement for more than four months or so in a year.

The tribals involved in shifting cultivation do not seem to have any emotional attachment to the land as an asset or property needing care and attention as in non-tribal areas. In shifting cultivation lands, no attention is paid to the replenishment of soil fertility. Tribals merely believe in harvesting crops without putting in efforts or investments. Land is just left to nature to recoup on its own.

To handle the problem of shifting cultivation, the National Policy will focus on the following aspects:

- ✍ Land tenure system will be rationalised giving tribals right to land ownership so that they will invest their energy and resources in checking soil erosion and fertility which have hitherto been neglected as land belonged to no one but was subject to exploitation by every one.
- ✍ Agricultural scientists will be asked to focus on shifting cultivation and evolve suitable technologies to improve production.
- ✍ The shifting cultivators will be ensured sufficient food supply through the public distribution system and grain banks. Tribals will be encouraged to raise cash crops and horticultural plantations.
- ✍ Training and extension programmes will be organised to sensitise tribals about alternative economic strategies so that they can come out of shifting cultivation.

### **Land Alienation:**

Scheduled Tribes being simple folk are often exploited to forgo their foremost important resource land to non-tribals. Although States have protective laws to check the trend, dispossessed tribals are yet to get back their lands. Yet, another form of land alienation takes place when States promote development projects like hydro-electric power stations and mining and industries. These developmental activities, which do not confer any benefit on tribals directly, render them landless.

The National Policy for Tribals seeks to tackle tribal land alienation by stipulating that

- ] *Tribals have access to village land records*
- ] *Land records be displayed at the panchayat*
- ] *Oral evidence be considered in the absence of records in the disposal of tribals' land disputes*
- ] *States prohibit transfer of lands from tribals to non-tribals*
- ] *Tribals and their representatives be associated with land surveys*
- ] *Forest tribal villagers be assigned pattas for the land under their tillage since ages*
- ] *States launching development projects take adequate care to keep tribal lands intact and when not possible, allot land even before a project takes off*

### **Intellectual Property Rights:**

Scheduled Tribes are known for their knowledge and wisdom of ethnic origin. There is, however, no legal and/or institutional framework to safeguard their intellectual property rights.

The National Policy, therefore, will aim at making legal and institutional arrangements to protect their intellectual property rights and curtailing the rights of corporate and other agencies to access and exploit their resource base.

### **Tribal Languages:**

The languages spoken by tribals - tribal languages - are treated as unscheduled languages. In the wake of changing educational scenario, many of the tribal languages are facing the threat of extinction. The loss of language may adversely affect tribal culture, especially their folklore.

The National Policy aims at preserving and documenting tribal languages.

Books and other publications in tribal languages will be promoted.

### **Primitive Tribal Groups (PTGs):**

Primitive Tribal Groups (PTGs) are Scheduled Tribes known for their declining or stagnant population, low levels of literacy, pre- agricultural technology, primarily belonging to the hunting and gathering stage, and extreme backwardness. They were considered as a special category for support for the first time in 1979. There are 75 Primitive Tribal Groups spread over 15 States and Union Territories. The 25 lakh PTG population constitutes nearly 3.6 per cent of the tribal population and 0.3 per cent of the country's population.

PTGs have not benefited from developmental activities. They face continuous threats of eviction from their homes and lands. They live with food insecurity and a host of diseases like sickle cell anaemia and malaria.



The National Policy envisages the following steps to tackle PTGs' problems:

- ☛ To boost PTGs' social image, their being stigmatized as 'primitive' shall be halted.
- ☛ Efforts shall be made to bring them on par with other Scheduled Tribes in a definite time frame. Developmental efforts should be tribe-specific and suit the local environment.
- ☛ Effective preventive and curative health systems shall be introduced.
- ☛ PTGs' traditional methods of prevention and cure shall be examined and validated.
- ☛ To combat the low level of literacy among PTGs, area and need specific education coupled with skill upgradation shall be given priority.
- ☛ Formal schooling shall be strengthened by taking advantage of 'Sarva Shiksha Abhiyan'. Trained tribal youth shall be inducted as teachers.
- ☛ Teaching shall be in tribals' mother tongue/dialect
- ☛ Considering PTGs' poverty, school-going children shall be provided incentives.
- ☛ Emphasis shall be on laid on vocational education and training.
- ☛ PTGs shall enjoy the 'right to land'. Any form of land alienation shall be prevented and landless PTGs given priority in land assignment.
- ☛ Public distribution system (PDS) shall be introduced to ensure regular food supply. Grain banks shall be established to ensure food availability during crises.

### **Scheduled Tribes and Scheduled Areas:**

Although the Constitution is clear about the concept and strategy adopted for defining Scheduled Areas and tribal areas in terms of Fifth and Sixth Schedules under Articles as 244(1) and 244(2), there is some confusion among those concerned with implementing them.

### ***The National Policy, therefore, envisages the following steps:***

-  The regulation making powers of State Governors to maintain good governance, peace and harmony in tribal areas will be further strengthened. It will be ensured that Tribal Advisory Councils meet regularly and focus on speedy developmental works and prohibition of land transfers. Money lending menace shall be curbed through implementation of money lending laws.
-  Tribal Advisory Councils will be established in States which have Scheduled Areas and even in States where a substantial number of tribal people live although Scheduled Areas have not been declared.  
The Autonomous District/Regional Councils in North-Eastern States will be further strengthened. The Councils are elected bodies having powers of legislation and execution and administration of justice.

### **Administration:**

The existing administrative machinery in States and districts comprising Integrated Tribal Development Agencies (ITDA) and Integrated Tribal Development Projects (ITDP) have not been up in terms of the quality of performance and development indicators.

The National Policy seeks to revitalise the administration by proposing the following:

- ✿ Skill upgradation-cum-orientation programmes shall be conducted for tribal administration officials.
- ✿ Infrastructure development shall be given priority to so that officials will function from their places of posting.
- ✿ Only officials who have adequate knowledge, experience and a sense of appreciation for tribal problems shall be posted for tribal administration.



As the schemes meant for improving tribals' condition take time, a t e n u r e that is commensurate with their implementation shall be fixed for officials.

### **Research:**

The National Policy acknowledges the importance of a good database to deal with Scheduled Tribes' affairs. Research on tribals' ethnic profiles, spectrum of problems and prospects and developmental constraints and monitoring and evaluation of schemes and projects needs priority attention.

The National Policy for Tribals proposes that the existing Tribal Research Institutes located in different States shall be further strengthened for carrying out purposeful research and evaluation studies and work towards the preservation of the rich tribal cultural heritage. It also envisages the establishment of a national-level research institution.

### **Participatory Approach:**

The National Policy recognises the importance of participatory approach to development. Non- Governmental Organisations (NGOs) and Voluntary Agencies (VAs) act as catalysts in reaching benefits of Government programmes and policies to the grass-root level and thus optimise the desired accomplishment. Such organisations have direct linkages with people and are conversant with their problems. NGOs can undertake and promote family and community based programmes and mobilise resources in tribal areas. Some well-established NGOs are eager to take part in the development of Scheduled Tribes in general and Primitive Tribal Groups in particular.

The National Policy, therefore, seeks to enlist and encourage NGOs in tribal development activities. They can play an important role in the opening of residential and non-residential schools, hostels, dispensaries, hospitals and vocational training centres, promotion of awareness programmes and capacity building.

### **Assimilation:**

To bring the tribals into country's mainstream, the National Policy envisages the following

- Identification of tribal groups with 'primitive traits' shall be done away with on a priority basis.
- The 'distinct culture' of the tribes reflected in their folk art, folk literature, traditional crafts and ethos shall be preserved. Their oral traditions shall be documented and art promoted.
- Opportunities shall be provided for tribals to interact with outside cultures.
- Their geographical isolation shall be minimised through development of roads, transport and means of communication and provision of concessional travel facility

## **FIFTH SCHEDULE**

[Article 244(1)]

### **Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes**

#### **PART A-GENERAL**

1. Interpretation.-In this Schedule, unless the context otherwise requires, the expression "State" \* \* \* .1does not include the [States of Assam .2[,Meghalaya, Tripura and Mizoram.3.]]]

2. Executive power of a State in Scheduled Areas.-Subject to the provisions of this Schedule, the executive power of a State extends to the Scheduled Areas therein.

3. Report by the Governor \* \* \* .4 to the President regarding the administration of Scheduled Areas.-The Governor \*\*\*.

4 of each State having Scheduled Areas therein shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes

## **PART B-ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES**

4. Tribes Advisory Council.-(1) There shall be established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State :

Provided that if the number of representatives of the Scheduled Tribes in the Legislative Assembly of the State is less than the number of seats in the Tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor \* \* \*.1. (3) The Governor \* \* \*.

2 may make rules prescribing or regulating, as the case may be,--

(a) the number of members of the Council, the mode of their appointment and the appointment of the Chairman of the Council and of the officers and servants thereof,

(b) the conduct of its meetings and its procedure in general; and

(c) all other incidental matters.

5. Law applicable to Scheduled Areas.-(1) Notwithstanding anything in this Constitution the Governor 1\* \* \* may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area. In particular and without prejudice to the generality of the foregoing power, such regulations may- (a) prohibit or restrict the transfer of land by or

among members of the Scheduled Tribes in such area; (b) regulate the allotment of land to members of the Scheduled Tribes in such area; (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) In making any such regulation as is referred to in subparagraph (2) of this paragraph, the Governor \*\*\*.3 may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to the area in question.

(4) All regulations made under this paragraph shall be submitted forthwith to the President and, until assented to by him, shall have no effect.

(5) No regulation shall be made under this paragraph unless the Governor \*\*\*.4 making the regulation has, in the case where there is a Tribes Advisory Council for the State, consulted such Council.

## **PART C-SCHEDULED AREAS**

6. Scheduled Areas.-(1) In this Constitution, the expression "Scheduled Areas" means such areas as the President may by order .1 declare to be Scheduled Areas.

(2) The President may at any time by order.2 - (a) direct that the whole or any specified part of a Scheduled Area shall cease to be a Scheduled Area or a part of such an area; [(aa).

3 increase the area of any Scheduled Area in a State after consultation with the Governor of that State;]

(b) alter, but only by way of rectification of boundaries, any Scheduled Area; (c) on any alteration of the boundaries of a State or on the admission into the Union or the establishment of a new State, declare any territory not previously included in any State to be, or to form part of, a Scheduled Area; [(d) rescind, in relation to any State or States, any order or orders made under this paragraph, and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas;] and any such order may contain such incidental and consequential provisions as appear to the President to be necessary and

proper, but save as aforesaid, the order made under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order.

## **PART D-AMENDMENT OF THE SCHEDULE**

7. Amendment of the Schedule.-(1) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this Schedule and, when the Schedule is so amended, any reference to this Schedule in this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law as is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this Constitution for the purposes of article 368.

## **SAMATA JUDGMENT**

Samata, an NGO working in the scheduled tribal area of Andhra Pradesh, filed a case against the state government of Andhra Pradesh.

This case was against the Government of A.P. for leasing out tribal lands to private mining companies in the Scheduled areas.

The case (SLP) filed in the Supreme Court of India led to a historic judgement in July 1997 by a three judge-bench.

The Judgement declared that the Government is also a "Person" and that: All lands leased to private mining companies in the scheduled areas are null and void.

Some features of the judgement are:

94. By the Constitution [73rd Amendment] Act, 1992 .... every Gram Sabha shall be competent to safeguard and preserve...community resources". .....

clause (m) (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawful alienation of land of a Scheduled Tribe ...

110. Minerals to be exploited by tribals themselves either individually or through cooperative societies with financial assistance of the State.

112. in the absence of total prohibition, the court laid down certain duties and obligations to the lessee, as a part of the project expenditure.

114. At least 20% of the profits as permanent fund for development needs apart for m reforestation and maintenance of ecology.

115. Transfer of land in Scheduled Area by way of lease to non-tribals, corporation aggregate, etc stands prohibited.

116. renewal of lease is fresh grant of lease and therefore, any transfer stands prohibited.

117. Transfer of mining lease to non-tribals, company, corporation aggregate or partnership firm etc is unconstitutional, void and inoperative. State instrumentality's like APMDC stands excluded from prohibition.

129. In the absence of total prohibition in some states with scheduled Areas, Committee of Secretaries and State Cabinet Sub committees should be constituted and decision taken thereafter.

131. Conference of all Chief Ministers, Ministers holding the Ministry concerned and Prime minister, and central Ministers concerned should take a policy decision for a consistent scheme throughout the country in respect of tribal lands.

## **An Overview of the Fifth Schedule and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996** **Bhubneshwar Sawaiyan**

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**Indigenous Rights in the Commonwealth Project**  
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India International Centre

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## **Introduction**

The Fifth Schedule is the constitutional provision with reference to the administration and development of the Scheduled Areas and Scheduled Tribes in India. The Schedule has been framed to protect of the rights of the Adivasis on their land, forest and water as their natural rights. On December 24th, 1996, the Government of India enacted the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, otherwise known as PESA. Prior to these constitutional provisions, the Constitution of India had certain provisions concerning the tribal people in the country. At the international level the Government of India has agreed in principle to ratify the International Covenants such as ILO Conventions no. 107, and the UN Declaration on the Right to Development. The ILO Convention no.

169, is yet to be ratified by the Government of India. There are, of course, Customary Laws of the indigenous/tribal peoples in every indigenous community which need to be considered in a broader perspective. This paper aims at evoking a discussion on the areas concerning the Fifth Schedule and the Panchayats Extension Act, 1996, of the Constitution of India and its relevance to the rights of indigenous peoples in general. Secondly, this paper tries to explain the perspective of the peoples' movements which have fought against the policies of the present Government, such as the efforts to amend the Fifth Schedule to the Constitution. Thirdly, this paper also focuses on the perspective of tribal and indigenous peoples pertaining to their rights.

## **The Fifth Schedule**

The Fifth Schedule is incorporated in the Constitution of India to allow the character and life of tribal peoples to exist side by side with the general population. Article 244(1) of the Constitution encompasses the wordings of the Constitution makers that convincingly expressed the tribal people of the Scheduled Areas having distinct identity, their rights need to be protected, and therefore, special provisions laid down in the Fifth Schedule to the Constitution. The said Article of the Constitution includes the rights of the tribal people, with special mention of the land of the tribal peoples and related regulation. Section 5 (2) of the Fifth Schedule refers to land and its ownership as follows:

### **5. Law applicable to Scheduled Areas -**

(2) The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area. In particular, and without prejudice to the generality of the foregoing power, such regulations may

(a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area;

(b) regulate the allotment of land of members of the Scheduled Tribes in such area;

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

## **The Provisions of the Panchayats**

The Provisions of the Panchayats already existed in some of the States such as in Maharashtra (1961) and Orissa (1965). The States like Gujarat (1993), Himachal Pradesh (1994), Andhra Pradesh (1994), Rajasthan (1994) and Madhya Pradesh (1994) enacted the Provision of the Panchayats after the Constitution (Seventy-third Amendment) Act, 1992. The above mentioned States have notified the Scheduled.

Areas. However, Article 243-M under the 73rd Amendment Act did not extend the provision of the Panchayats to the States having Scheduled Areas and also to Nagaland, Meghalaya, Mizoram, Manipur and Darjeeling.

Keeping in view the exclusion of the Scheduled Areas the present Act of 1996 was passed. Accordingly all the excluded Scheduled Areas were brought under the purview of a comprehensive single act. Wherein Section 3 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, states that the Provisions of Part IX of the Constitution relating to the Panchayats is extended to the Scheduled Areas. Presently most of the States have to redesign their Panchayats enactments. Chattisgarh and Jharkhand are two newly formed states which acted promptly in this direction. According to Section 4(i) of the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996 enshrines that:

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating



persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level.

Both the Fifth Schedule and the Provisions of the Panchayats Extension Act, 1996, are important for the indigenous and tribal people pertaining to their rights in Scheduled Areas. The Fifth Schedule stresses both the governance and the rights of the tribal people to their land, whereas the Provisions of the Panchayats of the Central Government emphasises the assertion of village community i.e., Gram Sabha. The Fifth Schedule empowers the President and the Governors to take care of the governance of the respective State wherever indigenous/tribal people reside in good number across the country, whereas the Panchayats Extension Act empowers the Gram Sabhas to take their own decision pertaining the developmental plans. The Fifth Schedule protects the rights of the indigenous and tribal people, whereas the Provisions of Panchayats Act promote the Gram Sabhas to act and assert the rights of the tribal and indigenous people with the “village community” as its unit. Members of the Tribes Advisory Council according to the Fifth Schedule have a duty to extend advice to the Governor on matters pertaining to the welfare and advancement of the scheduled Tribes in the State. Every Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayats at the village level shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution.

It is necessary to discuss these Constitutional Provisions because firstly, the present government has recently initiated a process keeping Adivasi communities in the dark to bring about an amendment to the Fifth Schedule to the Constitution of India, and secondly, because indigenous/tribal peoples have faced atrocities, witnessed brutality and experienced killings in the hands of police in

last couple of years.

## **The Perspective of the Peoples' Movements**

Indigenous/tribal peoples without land as their natural habitat is like birds without wings. Land is, of course, a natural right of the indigenous/tribal people. The Fifth Schedule to the Constitution of India discusses the issue of land in Article 244(1) for the Scheduled Areas. In 2001, a peoples' movement, representing the entire country, united against any effort to amend the Fifth Schedule to the Constitution. Traditional leaders and delegates from all over the country gathered and organised a National Convention in Delhi against the amendment of the Fifth Schedule to the Constitution.

Traditional indigenous/tribal leaders, lay men and activists resisted the killings at Maikanch (December 2000, Orissa), Tapkara (February 2001, Jharkhand), Devas (April 2001, Madhya Pradesh) and of other places during the two day Convention held on 8-9 May 2001, including the Fifth Schedule of the Constitution. The Declaration of the National Convention to Protest Against attempts to amend the Fifth Schedule of the Constitution was submitted to the President of India which says:

*We collectively declare that we the eight million Adivasis of this country will not refrain from any form of democratic assertion of our rights and will resist any tampering of our country's Constitution. We also call upon all the democratic forces of our country to understand the spirit and ethos of the struggle of Adivasis for their natural rights over natural resources. In our struggle for democracy we shall unite and fight.* Another people's movement in India, the Kerala Adivasi-Dalit Samara Samiti, has been largely successful. The struggle was initiated to restore the land of the Adivasis in Kerala. It took them more than one decade to reach an agreement with the Government of Kerala. One of the agreements between Samara Samiti and the Government of Kerala includes "a cabinet decision to include Adivasi areas in the Fifth Schedule and a

proposal would be made which shall be sent to the centre for further notification by the President. Meanwhile suitable legislation would be made to protect the land being allotted under this agreement.”

Such initiatives need to be undertaken in other parts of the country, as well as in other Commonwealth Countries, where the marginalised indigenous and tribal people have struggled endlessly to date. It is worth noting here a comment from a Social Development Specialist of the World Bank, New Delhi, who in a recent regional workshop of TERI said “if you want to get a prior consent from the indigenous people to start a project, you better forget it.” While the gentleman from the World Bank later refuted this by saying that this comment had been taken out of context, it demonstrates that the policy of exclusion is imposed upon indigenous and tribal people at different levels.

Dr. Ram Dayal Munda, former Vice-chancellor of the Ranchi University, Jharkhand, and the Chief Advisor of Indian Confederation of Indigenous and Tribal Peoples, advocates that there be a four party agreement including peoples affected by such international/national projects. In case of a dispute in any international project he argues that indigenous people should be allowed to appeal to the World Court for the safeguard of their rights.

## **Tribal and Indigenous Perspective**

Jaipal Singh, one of the most well-known tribal leaders, is quoted to have said in the Constituent Assembly “You cannot teach democracy to the tribal people; you have to learn democratic ways from them. They are the most democratic people on earth.”

Indeed in every indigenous and tribal community there are customary laws. These laws are not written. However, laws are dynamic traditions where decisions are taken collectively and consensually. These laws are still operative in the Scheduled Areas. For example, in the Singhbhum region of the new state of

Jharkhand, traditional leaders of the area, under the system of Manki-Munda, questioned the state legislation of the Provision of Panchayats (Extension to the Scheduled Areas) Act, 1996. They say that this Act does not match with the Manki-Munda traditional system because there are a lot of lacunae between the state provisions and the central provisions of the Panchayats (Extension to scheduled Area) Act, 1996. The state provisions of the Panchayats seem to be a mere formality rather than anything else. The exercise is meant to harmonise Centre-State relations. The message of these leaders is clear.

The country gathered and organised a National Convention in Delhi against the amendment of the Fifth Schedule to the Constitution.

Traditional indigenous/tribal leaders, lay men and activists resisted the killings at Maikanch (December 2000, Orissa), Tapkara (February 2001, Jharkhand), Devas (April 2001, Madhya Pradesh) and of other places during the two day Convention held on 8-9 May 2001, including the Fifth Schedule of the Constitution. The Declaration of the National Convention to Protest Against attempts to amend the Fifth Schedule of the Constitution was submitted to the President of India which says:


They argue that the new state provisions of the Panchayats need to be redesigned in accordance with the direction of Central Provision of Panchayats Extension Act, 1996. While they agree to many of the provisions of the Central Act, they disapprove of many in the provision of the State Acts, and they stand for the redesigning of the said Act. In Chattisgarh, the National Mineral Development Corporation (NDMC) propose to establish a steel plant in Bastar. The people are not against this project, but they do object to the way in which their rights have been criminal offence. A Grand Assembly of Gram Sabha was scheduled on March 2-3, 2002 at Nagarnar, Bastar in Chattisgarh, for the public hearing on the issue of indigenous/tribal rights relating to land as a natural right. However, state sponsored hooligan offences suppressed the community

assertion pertaining to their rights over the resources snatched away. Dr. B.D. Sharma, Bharat Jan Andolan, categorically blamed the concerned state authority of committing a criminal offence. A Grand Assembly of Gram Sabha was scheduled on March 2-3, 2002 at Nagarnar, Bastar in Chattisgarh, for the public hearing on the issue of indigenous/tribal rights relating to land as a natural right. However, state sponsored hooligan offences suppressed the community assertion pertaining to their rights over the resources.

In a multicultural country like India, which promises 'Unity in Diversity', it is natural for every community to hope to find its 'flower' some space in the common national 'bouquet'. The indigenous community is in danger of being thrown away by way of displacement. Are the Constitutional Provisions like the Fifth Schedule and the Provisions of Panchayats Act or any International Covenants of any use/help to indigenous/tribal people to enjoy their natural rights; rights to land, rights to water, rights to forest where they live? If yes, then to what extent? It is argued here, that this is the core issue to be raised at a forum like the Expert Regional Meeting of the Indigenous Rights in Commonwealth Project. I hope that there will be many more discussions on this subject.

#### Notes:

1. Fifth Schedule: Constitutional within the Constitution, Legal News and Views, Vol. 15, No.2, February 2001, Pages 21-23.
2. The fifth Schedule vol.1, Dr. B.D. Sharma.
3. Constitutional Provisions relating to Village Panchayats and Municipalities in India, (Ninth Edition 2002), Easter Book Company, Lalbagh, Lucknow.
4. Declaration of the National Convention to Protest against attempts to amend the Fifth Schedule of the Constitution, 8 - 9 May, 2001, New Delhi.

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5. Agreement reached by the Kerala Government with the Adivasi - Dalit Samara Samithy, October 21, 2001, Kerala.
  6. Workshop on testing the guideline on Integrating Indigenous Knowledge in Project Planning and Implementation, March 1, 2002, New Delhi.
  7. Crime Against Democracy in Nagarnar, Dr. B.D. Sharma, Sahyog Pustak Kuteer, New Delhi.
  8. Adivasi Identity: Crisis and way out, Dr. Ram Dayal Munda.

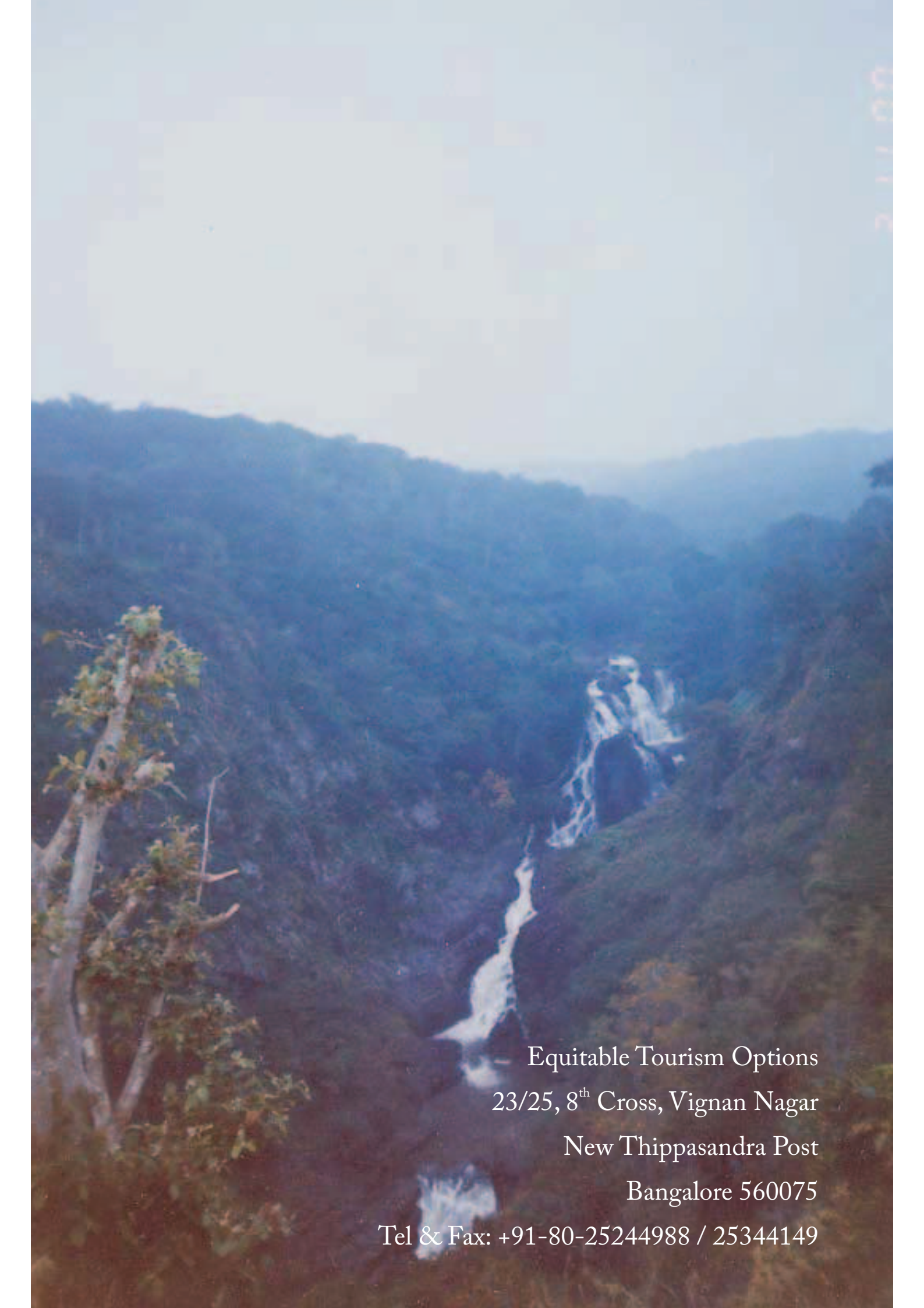


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Notes :





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